

NINETEENTH DAY.

Senate Chamber,
Austin, Texas,

Friday, September 9, 1910.

Senate met pursuant to adjournment, Lieutenant Governor A. B. Davidson presiding.

Roll call, quorum being present, the following Senators answering to their names:

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| Adams. | Murray. |
| Alexander. | Paulus. |
| Brachfield. | Peeler. |
| Cofer. | Ratliff. |
| Harper. | Senter. |
| Holsey. | Terrell of Bowie. |
| Hudspeth. | Terrell of McLennan. |
| Hume. | Terrell of Wise. |
| Kauffman. | Ward. |
| Kellie. | Watson. |
| Mayfield. | Weinert. |
| Meachum. | |

Absent.

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| Bryan. | Real. |
| Greer. | |

Absent—Excused.

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| Perkins. | Veale. |
| Sturgeon. | Willacy. |

Prayer by the Chaplain, Rev. H. M. Sears.

Pending the reading of the Journal of yesterday, on motion of Senator Cofer, the same was dispensed with.

The Chair called the regular order of business, and there being no business under this head, the Chair declared the morning call concluded.

FIRST HOUSE MESSAGE.

Hall of the House of Representatives,
Austin, Texas, September 9, 1910.

Hon. A. B. Davidson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has adopted the Free Conference Committee report on House bill No. 9 by the following vote: Yeas, 92; nays, 5.

Respectfully,

BOB BARKER,

Chief Clerk, House of Representatives.

INSTRUCTIONS TO FREE CONFERENCE COMMITTEE ON SENATE BILL NO. 10.

Senator Senter, a member of the Free Conference Committee on the peniten-

tiary bill, asked the Senate to instruct him as to the action with reference to that part of the bill relating to the retention of the strap, whereupon,

Senator Meachum offered the following resolution:

Resolved, That the Free Conference Committee of the Senate on the penitentiary bill be requested to stand for the retention of the strap on third-grade prisoners, in accord with the judgment of the House of Representatives and as decided by a majority vote of the House of Representatives, with a further provision providing substantially as follows:

That no convict shall be whipped until same has been authorized by at least two members of the Penitentiary Commissioners, upon their written order, and such order so issued shall be executed only in the presence of a prison physician, and a sworn report shall be made by the officer executing such order to the Penitentiary Commissioners, who shall keep a record of all such reports in a well-bound book to be kept for that purpose, which shall be at all times open to public inspection; and such report so to be made by such officer executing the order of the Penitentiary Commissioners shall state the name of the convict whipped, the number of strokes administered, the size of the strap used, the time and place thereof, in whose presence same was done, and the cause thereof. It shall further be the duty of the Penitentiary Commission to make semi-annual report of the whipping of convicts to the district judge of the county where such whipping occurred, who shall report same to the grand jury, which is hereby authorized to make investigation thereof, if they deem same advisable; and said Free Conference Committee is requested to provide offenses and suitable penalties for unlawful whipping of convicts, and to provide that in all such cases each and every convict and ex-convict shall be a competent witness.

MEACHUM,
WATSON,
BRACHFIELD,
COFER,
SENER,
PEELER,
HUME,
ADAMS,
KELLIE,
PAULUS,
KAUFFMAN,
RATLIFF.

Senator Alexander made a point of order on the above resolution, that the Free Conference Committee on the above bill had already agreed on this part of the bill, and that the Senate members of the committee had not asked for instructions on the matter and could not do so except when same was asked for as a committee, and that only one member of the committee had asked for the instruction.

The Chair (Lieutenant Governor Davidson) overruled the point of order.

Pending discussion on the above, Senator Meachum moved the previous question on same, which was duly seconded.

The previous question was ordered by the following vote:

Yeas—12.

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| Adams. | Paulus. |
| Brachfield. | Peeler. |
| Harper. | Ratliff. |
| Hume. | Senter. |
| Kellie. | Terrell of McLennan. |
| Meachum. | Watson. |

Nays—10.

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| Alexander. | Mayfield. |
| Cofer. | Terrell of Bowie. |
| Holsey. | Terrell of Wise. |
| Hudspeth. | Ward. |
| Kauffman. | Weinert. |

Absent.

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| Bryan. | Murray. |
| Greer. | Real. |

Absent—Excused.

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| Perkins. | Veale. |
| Sturgeon. | Willacy. |

Action recurred on the resolution, and the same was adopted by the following vote:

Yeas—13.

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| Adams. | Meachum. |
| Brachfield. | Paulus. |
| Cofer. | Peeler. |
| Harper. | Ratliff. |
| Hume. | Senter. |
| Kauffman. | Watson. |
| Kellie. | |

Nays—9.

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|-------------------|----------------------|
| Alexander. | Terrell of McLennan. |
| Holsey. | Terrell of Wise. |
| Hudspeth. | Ward. |
| Mayfield. | Weinert. |
| Terrell of Bowie. | |

Absent.

| | |
|--------|---------|
| Bryan. | Murray. |
| Greer. | Real. |

Absent—Excused.

| | |
|-----------|----------|
| Perkins. | Veale. |
| Sturgeon. | Willacy. |

Senator Meachum moved to reconsider the vote by which the resolution was adopted, and lay that motion on the table.

The motion to table prevailed.

Morning call concluded.

REASONS FOR VOTING.

We vote against the resolution offered by the Senator from Grimes (Meachum) et al. to instruct the Free Conference Committee of the Senate to insert a clause in its report authorizing the whipping of convicts confined in the penitentiary, and desire to record our solemn protest in the Journal of the Senate.

After full discussion on a former day of this session this Senate, by a vote of nearly two to one, declared that whipping should not be allowed, and now, in the closing hours of the session, when six members of the Senate are absent on account of sickness or important business, it is not a fair expression of the whole Senate's attitude on the question.

The Conference Committee having been appointed without instructions, and as a committee not having asked instructions, and the two committees having passed this section without disagreement, there is no parliamentary warrant or authority to now instruct them, and it sets a dangerous precedent of the future.

The use of the bat, strap or lash in the past has been so fruitful of abuse that the details are revolting to a civilized people. In 1874 an investigation showed the unmerciful whipping of convicts. The indignation of the people of Texas was aroused, but the law was not changed, and the abuses went on. In 1902 another investigation disclosed the same shameful state of affairs. More indignation, but no change in the law. The report of the committee, appointed at a former session of this Legislature, shows that the abuse of the law allowing the lash goes right on, and that cruel and ruthless punishment is frequent. On the publication of this report by the daily press, indignation meetings were held in many sections of the State, and the demand made for the abolition of the

strap. Although the law and the rules required the use of the strap only on written order of a superior officer in aggravated cases, from this report we find that prisoners were whipped and beaten unmercifully without any order. The straps used were of heavy sole leather, four or five inches wide and five or six feet long, with heavy handles. Many prisoners were beaten into insensibility, and some beaten to death. Others, white men, were stripped, placed face downward, with burly negroes seated upon head and feet while the inhuman guard plied the lash until the blood from the lacerated body of the helpless prisoner ran the full length of the room. This report shows that an examination of a squad of sixty-five men disclosed the fact that thirty-five of them bore the bruises and scars from these whippings. This abuse has continued and will continue so long as whipping is allowed.

The great majority of penologists who have given a life study to the question declare against it. All the States of the Union, save six or seven, have abolished it, and conduct their prisons more successfully than Texas has with it. The Federal prisons do not allow it. Even Hawaii and the Philippine Islands has discarded it. Why, then, should Texas, in inaugurating a great reform, hold on to this relic of barbarism?

Who ever heard of a man being whipped into good citizenship? Statistics show that for the last fifty years the lessening of the severity of punishment, where tried, has reduced offenses 40 per cent.

Russia uses the knout, and Spain the bastinado, and it is now sought by law to put Texas in a class with these countries.

Statistics and experience show that corporal punishment has never reformed, but has invariably hardened the offender.

If we authorize physical torture by law, we are but returning to the barbarous punishment of the Middle Ages, and instead of bringing about a reformation of the prisoner, we raise in him a revolt against those who beat and whip him, against society and the government itself.

Instead of obeying the plain mandate to reform the criminal, expressly declared to be one of the fundamental purposes of punishment by our Penal Code, we brutalize the prisoner and

drive him into deeper degradation and teach him that abuse and vengeance is all he may expect at the hands of the State.

Let us have discipline according to modern civilized methods, and not remain on a plane with Russia and Spain.

ALEXANDER,
MAYFIELD.

SIMPLE RESOLUTION.

By Senator Meachum:

Whereas, The Hon. M. Y. Randolph of Madisonville, Texas, a former distinguished member of this body, is now in attendance upon the Senate; therefore, be it

Resolved, That he be invited to address the Senate at this time, and that he be extended the courtesies and privileges of the floor.

The above resolution was read and adopted, and the Chair appointed Senators Meachum, Terrell of Wise and Kellie to escort ex-Senator Randolph to the President's chair.

Ex-Senator Randolph was introduced to the Senate, and made a short address.

HOUSE BILL NO. 17.

The Chair laid before the Senate, as regular order,

House bill No. 17, A bill to be entitled "An Act to establish a prison system, and declaring the policy of the State with reference thereto; to provide for the management and control of such prison system; to provide for the control, management and treatment of all prisoners sentenced to the penitentiary; to abolish the leasing and hiring of State prisoners; to provide rules and regulations for the government and conduct of such prison system; to restrict corporal punishment in the prison system; to provide for a Board of Prison Commissioners; to provide for their appointment, and defining their powers, duties and authority; to provide for the purchase or sale of real estate by the Prison Commissioners; to vest title of all real estate owned by the prison system; to provide for the appointment of an auditor, and prescribing his duties; prescribing penalties for violation of this act, and repealing Chapters 1, 2, 3, 4, 5, 6, 7 and 8, of Title 79, of the Revised Statutes of 1895,

and all laws and parts of laws in conflict with this act; making an appropriation to carry out the provisions of this act, and declaring an emergency."

On motion of Senator Brachfield, the above bill was laid on the table, subject to call.

AT EASE.

On motion of Senator Watson, the Senate was at ease, subject to the call of the Chair, the calendar of the Senate being clear.

INVITATION FROM HOUSE TO ATTEND SPEAKING.

A committee of three members of the House of Representatives here appeared at the bar of the Senate, and extended an invitation to the Senate to sit in joint session on account of the address of Governor Campbell to the Legislature today.

Senator Terrell of Bowie moved that the Senate accept the invitation, and that a committee of three be appointed to notify the house of the acceptance.

The motion was adopted, and the Chair appointed Senators Terrell of Bowie, Holsey and Alexander as the committee.

SENATE BILL NO. 10—FREE CONFERENCE COMMITTEE REPORT ON.

Senator Weinert here offered the following Free Conference Committee report on Senate bill No. 10:

Austin, Texas, September 9, 1910.

Hon. A. B. Davidson, President of the Senate, and Hon. John Marshall, Speaker of the House of Representatives.

Sirs: We, your Free Conference Committee, to whom was referred

Senate bill No. 10, A bill to be entitled "An Act to establish a prison system, and declaring the policy of the State with reference thereto; to provide for the management and control of such prison system; to provide for the control, management and treatment of all prisoners sentenced to the penitentiary; to abolish the leasing and hiring of State prisoners; to provide rules and regulations for the government and conduct of such prison system; to abolish corporal punishment in the prison sys-

tem; to provide for a Board of Prison Commissioners; to provide for their appointment, and defining their powers, duties and authority; to provide for the purchase or sale of real estate by the Prison Commission; to vest title of all real estate owned by the prison system; to provide for the appointment of an auditor, and prescribing his duties; prescribing penalties for the violation of this act; repealing Chapters 1, 2, 3, 4, 5, 6, 7 and 8, of Title 79, of the Revised Statutes of 1895, and all laws and parts of laws in conflict with this act; making an appropriation to carry out the provisions of this act, and declaring an emergency."

Have had same under consideration, and beg to report that we have adjusted the differences existing between the two houses, and report the bill attached, which embodies our agreement and adjustment of differences.

WEINERT,
SENER,
MURRAY,
HUDSPETH,
WARD,

On the part of the Senate.

GILMORE,
GOODMAN,
CAVES,
LOONEY,

On the part of the House.

Following is the bill:

A BILL

To Be Entitled

An Act to establish a prison system, and declaring the policy of the State with reference thereto; to provide for the management and control of such prison system; to provide for the control, management and treatment of all prisoners sentenced to the penitentiary; to provide that prisoners and ex-prisoners, as herein defined, shall be permitted to testify in certain cases; to abolish the leasing and hiring of State prisoners; to provide rules and regulations for the government and conduct of such prison system; to provide for a Board of Prison Commissioners; to provide for their appointment, and defining their powers, duties and authority; to provide for the purchase or sale of real estate by the Prison Commission; to vest title of all real estate owned by the prison system; to provide for the appointment of an auditor, and prescribing his duties; prescribing pen-

alties for the violation of this act; repealing Chapters 1, 2, 3, 4, 5, 6, 7 and 8, of Title 79, of the Revised Statutes of 1895, and all laws and parts of laws in conflict with this act.

Be it enacted by the Legislature of the State of Texas:

Section 1. That it shall be the policy of this State in the operation of its prison system to so manage and conduct the same that those convicted of violating the law and sentenced to a term in the penitentiary shall have humane treatment, and shall be given opportunity, encouragement and training in the matter of reformation.

Sec. 2. The prison system of this State, as referred to in this act, shall include the State penitentiary at Huntsville, the State penitentiary at Rusk, and such other penitentiaries as may hereafter be established, and all farms or camps where State prisoners are, or may be kept or worked, together with all property of every character belonging thereto or connected therewith.

Sec. 3. It is hereby declared the policy of this State to work all prisoners within the prison walls and upon farms owned by the State, and in no event shall the labor of a prisoner be sold to any contractor or lessee to work on farms or elsewhere, nor shall any prisoner be worked on any farm or otherwise upon shares, or upon any other farm or place other than that owned or controlled by the State of Texas after January 1, 1914; provided, that all contracts for prison labor in existence at the time this act takes effect shall terminate not later than January 1, 1914, and no contract for any prison labor shall be made which would extend beyond January 1, 1914; provided further, that the Board of Prison Commissioners shall change from the system of leasing and hiring out of prisoners at the earliest practicable time.

Sec. 4. To better carry out such policy, the management and control of the prison system of the State of Texas shall be vested in a board to be known as the Board of Prison Commissioners, and for the purposes of this act shall be referred to as the Prison Commission. Said Board of Prison Commissioners shall be composed of three men to be appointed by the Governor, with the advice and consent of the Senate, whose term of office shall be two years from date of appointment, except those first appointed under this act, who shall

hold their offices respectively for eight, sixteen and twenty-four months from the date of their appointment and qualification. In the appointment of said Commissioners first to be appointed under this act, the Governor shall designate the term each one shall hold under such appointment; provided, however, that in the event of a change in the Constitution, extending the term of office of the Prison Commissioners, then the members of said Board of Prison Commissioners then in office shall adjust their terms of office by lot or in conformance with the provisions of such constitutional amendment without the necessity of further legislative enactment.

Sec. 5. Each member of said Commission shall, within ten days after his appointment, execute a bond, payable to the Governor of this State and his successors in office for the use of the State, in the sum of \$50,000, and conditioned that he will faithfully execute the duties of his office, which said bond shall be executed with two or more good and sufficient sureties, or with some indemnity fidelity or bonding companies authorized to do business in Texas, the form of which bond shall be prepared by the Attorney General and the sufficiency of the sureties thereon approved by, and the same shall be filed with, the Secretary of State, which said bond shall not be void on the first recovery of part, or of the whole of the penalty, but shall thereafter continue in force for the whole amount of the penalty thereof, and may be sued on from time to time, and shall be deemed to extend to the faithful performance of the duties of his trust, until his successor shall be duly qualified and shall have entered upon the duties of his office. And it shall be the duty of the Attorney General, upon notice of default or failure to perform the duties as contemplated by law by any member of said Prison Commission, to bring suit in any court of competent jurisdiction in Travis county, Texas, for the forfeiture and collection of said bond; and before entering upon the duties of his office, each member of said board shall take and subscribe the oath of office prescribed by the Constitution of this State.

Sec. 6. Each member of the Board of Prison Commissioners shall receive as compensation for his services the sum of three hundred dollars per month, to be paid at the end of each month, and in addition thereto he shall be allowed all reasonable and necessary traveling ex-

penses actually incurred when traveling on business of the prison system, to be paid together with said salary out of the funds of the prison system, all such expense accounts to be itemized and sworn to in duplicate and approved by the Board of Prison Commissioners, or a majority of said board, one copy to be kept with the records of the Board of Prison Commissioners and one copy to be filed with the Comptroller of Public Accounts. Each member of said Board of Prison Commissioners shall reside at Huntsville, in Walker county, Texas, which is hereby designated as the headquarters of the prison system, and shall be permitted to occupy free of rent the residence houses belonging to the State at Huntsville.

Sec. 7. Each member of said Prison Commission shall devote his entire time to the discharge of the duties of said office, and shall not engage in any other occupation or business during his term of office, nor shall either of the members of said board be directly or indirectly connected with or interested in any contract, sale or purchase of any property or thing whatsoever which may be made during his term of office and in which either the State or the prison system are interested. And any violation of any of the provisions of this section of this act shall be sufficient ground for his removal from office.

Sec. 8. That said Prison Commission shall be vested with the exclusive management and control of the prison system of this State, and shall be held responsible for the proper care, treatment, feeding, clothing and management of the prisoners confined therein, and at all times for the faithful enforcement of the spirit, intent and purpose of the laws and rules governing said system; provided, that the Prison Commission shall be held responsible for maltreatment of prisoners, and, if permitted, it shall be grounds for removal from office.

Sec. 9. That the said Prison Commission shall have the power to and it shall be their duty to appoint all necessary officers, all physicians, chaplains, teachers and all clerical help needed in conducting said prison system, including a secretary of the Prison Commission, and they shall require all appointees, who, in discharging their duties, are charged with handling any funds of the system or State, to execute bond in such amount as may be fixed by the Prison Commission, payable to the Prison Commission for the use and benefit of the State, to

be conditioned for the faithful performance of their duties.

Sec. 10. A majority of said Prison Commission shall constitute a quorum for the transaction of business. The Commissioners shall select one of their number as chairman. They shall designate one member to have supervision over the finances and financial transactions of the prison system, one who shall supervise the feeding, clothing, care and treatment of the prisoners, and one who shall supervise the work of all the officers and employes of the prison system, and who shall also be known and designated as the Superintendent of Parole, and shall direct the enforcement of any parole law or indeterminate sentence law which may now or hereafter be in force in this State, unless otherwise directed by law. Provided, that the work of each member so designated shall be under the general supervision of and he shall report his actions to the Prison Commission. The provisions of this section are intended to facilitate the work of the Prison Commission and shall not be construed as relieving the full Board of the Prison Commissioners of any authority or general responsibility for the management of the prison system. The Prison Commission shall keep or cause to be kept in a well-bound book a minute of the proceedings of all meetings held by them.

Sec. 11. The Prison Commission shall have the authority at all times to discharge any officer or any employe of the prison system for failure to comply with the rules, regulations or laws governing the prison system, or for any dereliction in duty, or whenever they may deem it to be for the best interests of the service.

Sec. 12. The Prison Commission shall have the power to purchase or cause to be purchased with such funds as may be at their disposal, any lands, buildings, machinery, tools or supplies for the benefit of said prison system, and may establish such factories as in their judgment may be practicable and that will afford useful and proper employment to prisoners confined in the State prison, under such regulations, conditions and restrictions as may be deemed best for the welfare of the State and the prisoners, it being the purpose of this act to clothe said Board of Prison Commissioners with all power and authority necessary for the proper management of the prison system of this State.

Sec. 13. The Prison Commission shall have power, with the approval of the

Governor, to purchase such land as may, in their judgment, be necessary in the operation of said system, and the employment of prisoners confined in said prison, and in the purchase thereof they may pay such sum in cash as may be agreed upon with the vendor and for the unpaid purchase money to become due upon said land they shall execute to the vendor notes payable in such sum and at such time as may be agreed upon between the parties, and the payment of which shall be secured by a deed of trust upon such land in the usual form, and containing such covenants as may be agreed upon between the parties, and may pledge a sufficient amount of the net revenues of the property so purchased to pay the deferred installments of purchase money thereon, and it shall be expressly provided in the conveyance to said land, the notes executed for the unpaid purchase money and the deed of trust, that the vendor relies alone upon the lien created by the deed of trust upon said land and the net revenues so pledged, and that no personal liability against the Prison Commission or the State of Texas shall arise out of said transaction beyond said liens; and the purchase money paid originally, as well as the installments paid upon the deferred payments, may be paid out of any funds belonging to said prison system. The title to all lands purchased by the Prison Commission under the terms of this act shall be examined, passed upon and approved as good and sufficient by the Attorney General, and all conveyances, notes and trust deeds and other instruments executed under the provisions of this act shall be prepared, passed upon and approved by the Attorney General. The title to all lands so purchased shall vest in the Prison Commission, and their successors in office, as trustees for the State.

Sec. 14. The Prison Commission may buy annually so many acres of land as will, not later than January 1, 1914, or sooner, if practicable, enable all prisoners hired out or employed on share or contract farms, and who are not otherwise employed by the State, to be employed directly on farms belonging to the prison system.

Sec. 15. The Prison Commission is authorized, and it shall be its duty, to cause to be constructed upon land now belonging to the prison system, and upon such land as may be bought hereafter, all necessary modern fire-proof, well-ventilated prison buildings, providing a

separate cell or room for each prisoner, as far as conditions and the welfare of the prisoners demand, with proper bathing facilities and all necessary sanitary water closets and other sanitary arrangements within such buildings; also sanitary kitchens, dining rooms, hospitals, school rooms and chapels, and other necessary conveniences for the benefit of the prisoners. The provisions of this section shall be carried out to completion as rapidly as is practicable, so that the same shall be completed in the entire system within six years from the taking effect of this act.

Sec. 16. The Prison Commission shall have power to sell and dispose of all farm products and the products of all factories connected with the prison system, and all personal and movable property at such price and on such terms as may be deemed best by them, and they may, with the approval of the Governor, sell or lease any real estate or other fixed property and appurtenances belonging thereto upon such terms as to them seem best, and upon the sale thereof they shall have power to execute proper conveyances to the title thereto, which instruments of conveyance shall be prepared and approved by the Attorney General. The Prison Commission shall, in the purchase or sale of all real estate, or in the purchase or sale of any machinery or equipment for the prison system exceeding in value the sum of \$5000, advertise in the manner prescribed by the Prison Commission for bids for such property in at least three daily papers in this State having a general circulation, and shall give all such bids received to the public press at least thirty days before any such contract is let.

Sec. 17. On Monday of each week the Prison Commission shall remit to the State Treasurer all moneys received by them as such from whatever source during the preceding week and belonging to the system. The Treasurer shall hold such fund as bailee for the Prison Commission, which fund shall be known as the Prison Commission Account, and he shall give to the Prison Commission a deposit receipt for same, and shall pay out same on draft drawn by the officer designated by Section 22 of this act. The Prison Commission is authorized to draw upon the Prison Commission Account with the State Treasurer, such sum or sums of money and at such time or times, as in their judgment may be necessary for the transaction of the business of the system; provided, they

shall not draw for a sum that will give them in hand and in bank subject to disbursement a sum in excess of twenty-five thousand dollars; and, provided further, the account of the prison system with the State Treasurer shall in no event be overdrawn and in no event shall the State Treasurer ever permit an overdraft against the Prison Commission Account to be paid. On December 1st of each year the State Treasurer shall ascertain the interest earned by the fund belonging to the prison system from the State depositories, and place said sum to the credit of the Prison Commission Account and send deposit receipt to the Prison Commission.

Sec. 18. The Prison Commission may at any time issue such orders and prescribe such rules and regulations for the government of the prison system of this State, not inconsistent with the law, as it may deem proper, or to provide such details not embraced herein, and for such contingencies as may at any time arise concerning the management of the prison system, or its proper and effective operation, and such rules and regulations shall be made with a view of carrying out the general principles on which the penal laws are founded, and for which the prison system is established, and shall be binding on all underofficers, employes and all persons whomsoever in any way connected with the State prisons or its management, or its prisoners within and without the walls. The Prison Commission shall have all laws, rules and regulations of the prison system printed in pamphlet form for the information and guidance of all connected with the management of the prison system, and such parts of said rules as relate to the duties of subordinate officers and prisoners shall be printed in suitable form and posted in conspicuous places about the prison, or wherever prisoners may be confined, for the information of all concerned. All officers, employes and guards having supervision of prisoners shall be furnished with a copy of the law, rules and regulations governing the prison system, and shall give a receipt therefor, and the Prison Commission shall from time to time require examination of such officers, employes and guards as will ascertain their knowledge of such law, rules and regulations, and any such officer, employe or guard who shall fail to familiarize himself with the law, rules and regulations of the prison system shall be dismissed from the service.

Sec. 19. It shall be the duty of some member or members of the Prison Commission to spend at least one whole day each month, without notice, at each prison, camp or farm where prisoners are kept or worked, and to carefully inspect same with reference to the food, clothing and treatment of the prisoners, the general sanitary conditions existing at such prisons, camps or farms, reporting upon such conditions, the efforts at reformation, the general conduct of all officers and employes connected therewith, and punishment administered for the enforcement of prison discipline, making such reports to the full Board of Prison Commissioners; provided, that the various prisons, camps and farms where prisoners are kept, may be divided for the purpose of this inspection between two or more members of the Prison Commission, or such other person as may be designated by the Prison Commission.

Sec. 20. It shall be the duty of the Prison Commission to make suitable provision and regulation for the safe and speedy transportation of prisoners from counties where sentenced to the penitentiaries at Huntsville by the sheriffs of such respective counties, if such sheriffs are willing to perform such services as cheaply as said Commission can have it done otherwise. Said transportation shall be on State account, and in no instance shall the prisoners be carried direct from the county jails to the State farms, but shall first be carried to the penitentiary at Huntsville, where the character of labor which each prisoner may reasonably perform shall be determined. Upon the arrival of each prisoner at the penitentiary at Huntsville the Prison Commission shall cause a statement to be made by the prisoner, giving a brief history of his life, and showing where he has resided, the names and postoffice addresses of his immediate relatives, and such other facts as will tend to show his past habits and character; and the Prison Commission shall, by correspondence or otherwise, verify or disprove such statements, if practicable, and shall preserve the record and information so obtained for future reference.

Sec. 21. The Prison Commission shall cause to be made annually on the 1st day of January, a full and complete inventory of all lands, buildings, machinery, tools, live stock, and all other property of every description belonging to the prison system, and shall cause to

be set opposite each item the book value, and also the actual value of the same, so as to afford an easy comparison with the previous annual statement. And the Prison Commission shall cause to be kept in the accounting department of the prison system a system of books, showing a separate account with each industry and farm and for the system as a whole, showing the losses, profits and net earnings of each industry and farm connected with the system, and shall make a report of the same annually on the 1st day of January to the Governor, which report shall be published by the Governor in a sufficient number of copies to give general publicity to such report; such report to include the rules and regulations in force for the management of said system and the methods of dealing with the convicts thereof.

Sec. 22. The member of the Prison Commission designated by the board to have supervision over the finances and financial transactions of the prison system shall keep, or cause to be kept, correct and accurate accounts of each and every financial transaction of the prison system, including all receipts and disbursements of every character. He shall receive and receipt for all money paid to the Prison Commission from every source whatsoever, and shall sign all vouchers or warrants authorizing the payment or disbursement of any sum or sums on account of the prison system, and no money shall be paid out on any account of the prison system except upon a warrant or voucher signed by him. He shall keep full and correct accounts with each industry, department and farm, and with all firms, persons or corporations having financial transactions with the prison system. He shall have power to require all necessary reports from any department, officer or employe at stated intervals. All deposits of prison funds with banks shall be kept in the name of the officer in his official capacity, and all funds of the prison system shall be kept separate from private funds. Such accountants and clerical assistance as may be necessary to carry out the provisions of this section shall be provided by the Prison Commission, in order that a full, complete and correct account may be kept of all financial transactions of the prison system. In the absence of such officer, one of the other Prison Commissioners may sign such receipts, warrants or vouchers.

Sec. 23. On the taking effect of this

act, and annually thereafter, there shall be appointed by the Comptroller of Public Accounts, the Attorney General and the State Treasurer a permanent auditor for the prison system, who shall hold his office for a term of one year, subject to discharge at any time as hereinafter provided. It shall be the duty of such auditor to audit all accounts, vouchers, pay rolls and all other business transactions of the prison system, and to check all property, material and supplies received and disposed of by or distributed within the prison system, and he shall make a full report thereof to the Governor on the 1st day of January of each year. Such auditor shall be subject to discharge at any time by the Comptroller of Public Accounts, Attorney General and State Treasurer, or by a majority of said officers, for any incompetency, neglect, failure or refusal to discharge the duties of his office, or for any wrongful conduct that in the judgment of the Comptroller of Public Accounts, Attorney General and State Treasurer renders him unfit for said office, and in the case of the discharge or resignation of any auditor, another shall be appointed by said officers or a majority of said officers. During the term of his services such accountant shall be paid monthly a salary of two hundred dollars per month and all actual and necessary traveling expenses, to be paid at the end of each month out of any moneys belonging to the prison system, such traveling expenses to be evidenced by an itemized sworn statement by the auditor, filed with the board.

Sec. 24. Each member of the Board of Prison Commissioners in the discharge of his duties is authorized to administer oaths, to summon and examine witnesses, and take such other steps as he deems necessary to ascertain the truth of any matter about which he may have the right to inquire.

Sec. 25. Except for third-class prisoners, within a reasonable time and not later than six months after the taking effect of this act, the Prison Commission shall abolish striped or checked clothes for prisoners, except as a mode of punishment for the violation of prison discipline, substituting therefor some suitable uniform.

Sec. 26. The Prison Commission shall, as soon as practicable, provide each prison, farm and camp where prisoners are kept or worked, schools for instruction of prisoners in elementary branches of the English language and industrial

education, and such other instruction as they may prescribe, and shall provide suitable recreation for the prisoners at reasonable hours, including music, and they shall employ such number of competent teachers to instruct the prisoners in the same as in the judgment of the Prison Commission may seem necessary, and the Prison Commission shall make reasonable rules and regulations whereby the prisoners may attend such schools. The Prison Commission shall prescribe and furnish to the prisoners suitable books and other reading matter, and to this end may establish and operate among the prisoners a circulating library, and may adopt such other means of distributing among the prisoners good and wholesome literature, as in the judgment of the Prison Commission will best enable the prisoners to avail themselves of the same: provided, that all teachers herein provided for shall, as far as practicable, be taken from the convicts, and such teachers may be excused from further labors. The chaplain shall be ex-officio librarian of the penitentiary, passing upon all library books, and direct such other work as may be prescribed for such library management.

Sec. 27. The Prison Commission shall provide for religious services at prisons, farms and camps where prisoners are kept or worked. They shall employ such chaplains as may be necessary to afford all prisoners an opportunity to attend at least two religious services each month, said chaplains to devote their entire time to religious and moral training and education of the prisoners under their care, teaching them the principles and practice of every Christian and moral duty; provided, that chaplains may also be teachers, as provided for in this act.

Sec. 28. If any member of the Board of Prison Commissioners shall be guilty of malfeasance or nonfeasance in office or shall become incapable or unfit to discharge his official duties, or shall wilfully fail, refuse or neglect to discharge the duties of his office, such member shall be subject to removal from office as provided by Article 3528, Revised Statutes of 1895.

Sec. 29. The Prison Commission shall, except as provided in this act, fix the salaries of all officers and employes of the prison system upon such basis as the labor and ability of the officer or employe entitles him to, such salary to be paid monthly at the end of each month. They shall pay to those em-

ployed as guards of the convicts a salary of not less than thirty-five dollars per month and furnish them board and lodging free; provided, that for meritorious service and adaptability to the work, the Prison Commission may increase the pay of any guard to an amount not to exceed forty dollars per month. No person shall be employed as a guard to guard convicts who is not at least 21 years of age, of good moral character, and who is not able to read and write, and has not a fair knowledge of the English language, and the Prison Commission may provide such other qualifications as they may deem expedient; provided, that no person shall be employed as a guard who is in any way addicted to the use of alcoholic or intoxicating liquors, and the Prison Commission shall require all officers and employes connected with the prison system to familiarize themselves with and conform to the rules and regulations and laws governing the prison system of this State; provided, the Prison Commission shall require all officers and employes connected with the prison system of this State to take and subscribe to the oath of office prescribed by the Constitution.

Sec. 30. The Prison Commission shall see that all State prisoners are fed good and wholesome food, properly prepared, under wholesome sanitary conditions and in sufficient quantity and reasonable variety, and they shall hold all underofficers performing this work strictly to account for any failure to carry out this provision. That the food may be properly prepared, the Prison Commission shall provide for the training of prisoners as cooks.

Sec. 31. The Prison Commission shall require at the end of each month reports showing fully the condition and treatment of the prisoners and the changes in the prison population during the month, including itemized statements of all different items of food, clothing and utensils used and on hand in each of the units of the prison system, and such other matters as they may require.

Sec. 32. The Prison Commission shall keep a register of all prisoners belonging to the prison system, showing the number of each prisoner, giving the aliases, name, age, height, color of hair, color of eyes, complexion, marks on person, sex, nativity, residence, county where convicted, offense of which convicted, date of sentence, date of receipt, previous occupation and habits, if known,

and may adopt such other means of identification as they may deem proper and necessary. They shall keep a record of the general conditions and conduct of each prisoner, noting all punishments, forfeitures, bad conduct, changes and incidents of importance that may occur during his confinement, and to the end that complete records may be kept, they may require from all underofficers such monthly and other reports as they may deem proper. They shall issue discharges to such prisoners as are entitled thereto by expiration of sentence or otherwise.

Sec. 33. That persons confined in the State prisons of this State may have every opportunity and encouragement for moral reform, it shall be the duty of the Prison Commission, in addition to the requirements of this act, to provide every reasonable and practicable means for the encouragement of such reform. To this end, the Prison Commission shall provide for the classification of all prisoners, separating them into the following classes: In the first class shall be included young men, first offenders, those appearing to be corrigible, or less vicious than others, and likely to observe the laws, and to maintain themselves by honest industry after their discharge. In the second class shall be included those appearing to be less corrigible, or more vicious, but content to work, and reasonably obedient to prison discipline as not to seriously interfere with the productiveness of their labor, or with the labor or conduct of those with whom they may be employed. In the third class shall be included those appearing to be incorrigible, or so insubordinate, or so vicious in their nature as to seriously interfere with the labor and moral development of those with whom they must come in contact. The Prison Commission shall make rules and regulations for the promotion and reduction of the prisoners from one class to another, and shall transfer them from one class to another from time to time, as they may seem to merit promotion or reduction. The prisoners in each of the classes hereinbefore named shall be kept in or upon different or separate prisons or farms. Any prisoner, upon entering the prison system, shall be assigned to one of its institutions according to his class, as hereinbefore provided, and shall be entered in said institution in a neutral grade, which shall be known as grade No. 2, and in which he shall be furnished with a suitable

uniform designated for that grade. The Prison Commission shall adopt rules for a higher grade, which shall be known as grade No. 1, as a reward for obedience to prison discipline and good conduct, and shall provide a suitable uniform for this grade; and they shall provide for a lower grade as a punishment for misconduct and violation of prison discipline, which grade shall be known as No. 3, and in which the prisoner shall be clothed in stripes. The uniforms for grades Nos. 1 and 2 shall not be stripes. The Prison Commission shall provide rules for promotion of prisoners from any grade to another for good conduct and obedience to prison discipline and for demotion of prisoners for misconduct and violation of prison discipline. The Prison Commission shall provide specifically for the extension or denial of privileges for the various grades herein provided. In order that prison discipline may be enforced, the Prison Commission may adopt such modes of punishment as may be necessary, such punishment being always humane, and placing prisoners in stocks shall be prohibited. Whipping, with not exceeding twenty lashes on the bare rump and thighs may be resorted to with prisoners of the third class, who can not be made to observe the rules by milder methods of punishment. The strap to be used must be of leather, not over two and one-half inches wide, and twenty-four inches long, attached to a wooden handle; no convict shall be whipped until same has been authorized by at least two members of the Prison Commission upon their written order, and such order so issued shall be executed only in the presence of a prison physician, and a sworn report shall be made by the officer executing such order to the Penitentiary Commission, who shall keep a record of all such report in a well-bound book, to be kept for that purpose, which shall be at all times open to public inspection; and such report so to be made by such officer executing the order of the Penitentiary Commission, shall state the name of the convict whipped, the number of strokes administered, the size of the strap used, the time and place thereof, in whose presence same was done, and the cause thereof. It shall further be the duty of the Penitentiary Commission to make a semi-annual report of the whipping of convicts to the district judge of the county where such whippings occurred, who shall report same to the grand jury, which is hereby

authorized to make investigation thereof, if they deem same advisable. The utmost care must be used by the officer executing the order of the Commission not to break the skin of the prisoner whipped, and any person guilty of whipping a prisoner more lashes or other than as provided herein, or striking a prisoner, except in self-defense, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than \$25 nor more than \$250, and imprisoned in the county jail not less than thirty days nor more than six months. White and negro prisoners shall not be worked together when it can be avoided, and shall be kept separate when not at work.

Sec. 34. All female prisoners shall be kept separate and apart from the male prisoners. Where practicable, the Prison Commission shall keep the female prisoners upon a separate farm or at a separate prison from the male prisoners, and shall provide reasonable rules and regulations for the government of the same.

Sec. 35. The Prison Commission shall provide such labor for said female prisoners as in their judgment they can reasonably perform, but the prison physician for such female prisoners shall at any time have the authority to say whether the physical condition of said female prisoners is such that they can perform any physical labor; provided, that in the absence of the physician the matron shall pass upon the physical condition of said female prisoners.

Sec. 36. The Prison Commission shall keep the white female prisoners separate and apart from the negro female prisoners, and shall select and place over said female prisoners a matron or matrons, whose duty it shall be to give her personal attention to the welfare of such female prisoners. The matron or matrons so employed to look after the welfare of the female prisoners shall reside at the place where female prisoners are kept.

Sec. 37. At the place where female prisoners are kept none but married men shall be employed as guards, and the houses for such guards and their families shall be provided by the State, in which the families of the guards shall live. And said guards shall be allowed \$10 per month in addition to his salary in lieu of his board, said houses not to be situated further than one hundred yards from the main prison building where such female prisoners are kept.

Sec. 38. If a female prisoner be received with an infant, or if any child be born in the penitentiary, the child shall be permitted to remain with its mother until three to six years of age, in the discretion of and as prescribed by the Prison Commission.

Sec. 39. Every prisoner who shall become entitled to a diminution of his term of sentence by good conduct shall receive compensation from the earnings of the State prison to the amount of 10 cents per day for the time said prisoner is confined in prison; provided, that whenever any prisoner shall forfeit any part of his good time for misconduct or violation of the rules or regulations of the prison, he shall forfeit out of the compensation allowed under this section 25 cents per day for each day of such good time so forfeited; provided, that when such prisoner has a family or relatives within the second degree by consanguinity or affinity, dependent upon him, such saving shall be paid semi-annually to such of them as may be designated by the prisoner, but if he have no such dependent relatives then said saving shall be paid to him upon his discharge from prison. And if he be a life-term prisoner such saving may be paid as directed by him, with the approval of the Prison Commission. But if he should die in prison without such dependent relations such saving shall revert to the State.

Sec. 40. No prisoner shall be worked on Sunday except in cases of extreme necessity, and all prisoners so required to work on Sunday shall be paid out of the funds of the prison system the sum of \$1 per day for each Sunday so worked.

Sec. 41. The various provisions of this act are designed to secure to the prisoners humane treatment, suitable moral instruction, to provide for their health, and to extend to them such comforts and privileges as may be consistent with their situation, and at the same time to require of them a due attention to their various duties and a strict observance of the discipline, rules and regulations of the prison.

Sec. 42. In order to encourage prison discipline, a distinction may be made in the treatment of prisoners so as to extend to all such as are orderly, industrious and obedient comforts and privileges according to their deserts. The rewards to be bestowed on prisoners for good conduct shall consist of such relaxation of strict prison rules and extension of social privileges as may not

be inconsistent with proper discipline. Commutation of time for good conduct shall be granted by the Prison Commission, and the following deductions shall be made from the term or terms of sentences when no charge of misconduct has been sustained against a prisoner, viz.: Two days per month off the first year of sentence; three days per month off the second year of sentence; four days per month off the third year of sentence; five days per month off the fourth year of sentence; six days per month off the fifth year of sentence; seven days per month off the sixth year of sentence; eight days per month off the seventh year of sentence; nine days per month off the eighth year of sentence; ten days per month off the ninth year of sentence; fifteen days per month off the tenth year, and all succeeding years of sentence. A prisoner under two or more cumulative sentences shall be allowed commutation as if they were all one sentence. For each sustained charge of misconduct in violation of any rule known to the prisoner in any year of the term, the commutation allowed for one month of such year may be forfeited, for any sustained charge of escape or attempt to escape, mutinous conduct or other serious misconduct, all the commutation which shall have accrued in favor of the prisoner up to that day shall be forfeited, unless in case of escape, the prisoner voluntarily returns without expense to the State, such forfeiture may be set aside by the Prison Commission. For extra meritorious conduct on the part of any prisoner, he shall be recommended to the favorable consideration of the Governor for increased commutation or pardon, and in the case of any prisoner who shall have escaped and been captured, part or all of his good time thereby forfeited may be restored by the Prison Commission, if in their judgment his subsequent conduct entitles him thereto.

Sec. 43. Hereafter, life or long-term prisoners who have actually served fifteen years and have no sustained charges of misconduct and have a good prison record, and who shall be favorably recommended to the Governor, may receive at the hands of the Governor a reasonable commutation of sentence, and if a life sentence is commuted to a term of years, then such convict shall have the benefit of the ordinary commutation, as if originally sentenced for a term of years, except the Governor shall otherwise direct.

Sec. 44. Suitable clothing of substantial material, uniform make and reasonable fit, and such footwear as will be substantial and comfortable shall be furnished the prisoners, and no prisoner shall be allowed to wear other clothing than that furnished by the prison authorities, except in case of extra meritorious conduct only the Prison Commission may allow the prisoner to wear citizen underwear. Sufficient food of wholesome quality and variety and wholesomely prepared shall be furnished to all, and such provisions shall be made for serving the food to prisoners as will tend to encourage and elevate them. It shall be the duty of every officer charged with the preparation and serving of food to the prisoners to post in the dining room each Monday morning for the coming week the bill of fare for that week, and the rules promulgated by the Prison Commission shall prescribe the quality, kind and variety of food to be furnished. Prisoners shall not be allowed spirituous, vinous or malt liquors, except upon the prescription of the physician.

Sec. 45. Prisoners shall be kept at work under such rules and regulations as may be adopted by the Prison Commission; provided, that no prisoner shall be required to work more than ten hours per day, except in case of an extreme and unavoidable emergency, which time shall include the time spent in going to and returning from their work, but not to include the intermission for dinner, which shall not be less than one hour. And in case of such extreme and unavoidable emergency said prisoner shall receive out of the funds of the prison system the sum of 10 cents per hour for such work so performed more than ten hours per day. In going to and returning from work prisoners shall not be required to travel faster than a walk. No greater amount of labor shall be required of any prisoner than his physical health and strength will reasonably permit, nor shall any prisoner be placed at such labor as the prison physician may pronounce him unable to perform. No prisoner upon his admission to the prison shall be assigned to any labor until first having been examined by the prison physician. Any officer or employe violating any provision of this section shall be dismissed from the service.

Sec. 46. Prisoners who have been reported by the physician or other officer in charge as in a condition of health which requires their removal to some other place shall be accordingly removed.

Sec. 47. Prisoners when received into the penitentiary shall be carefully searched. If money be found on the person of the prisoner, or received by him at any time, it shall be taken in charge by the Prison Commission and placed to the prisoner's credit, and expended for the prisoner's benefit on his written order, and under such restrictions as may be prescribed by law or the rules. Any officer or employe having charge of a prisoner's money who misappropriates the same, or any part thereof, shall be deemed guilty of a felony and upon conviction thereof shall be confined in the penitentiary for a term of not more than five years.

Sec. 48. If any prisoner shall die while in prison, the officer in charge of the prisoner at the time of his death shall immediately report the same to the Prison Commission, and, if he knows the address or place of residence of any relative within the third degree, either by consanguinity or affinity, shall also notify by wire said relative of the death of such prisoner, and if the relative of such prisoner claim the body or will take charge of same, then the body of such prisoner shall be turned over to such relative, and the expense of shipping the body to where it is to be buried, provided it is within this State, shall be paid by the Prison Commission out of any available penitentiary funds on hand upon the request of such relative. If the residence and address of the relative of such prisoner is unknown, such prisoner shall be decently buried in citizen's clothes, and the grave marked by a stone with the name of said prisoner, date of death, and age, if known, inscribed thereon. If the body of such prisoner is not claimed by the relatives, the Prison Commission shall at once notify the county judge of the county from which the prisoner was sentenced of his death, the date and cause of death and place of burial. The Prison Commission shall cause to be made and kept a record of the deaths of prisoners and certified copies of same made by the custodian thereof shall be admissible in evidence under the rules of law applying to official records. Any officer or employe of the prison system of whom any duties are required by this section, who shall fail to discharge such duties, shall be guilty of a misdemeanor and upon conviction shall be fined in any sum not exceeding five hundred dollars.

Sec. 49. The Prison Commission, or other person in charge of prisoners, upon

the death of any prisoner under their care and control shall at once notify the nearest justice of the peace of the county in which said prisoner died of the death of said prisoner, and it shall be the duty of such justice of the peace, when so notified of the death of such prisoner, to go in person and make a personal examination of the body of such prisoner, and inquire into the cause of the death of such prisoner, and said justice of the peace shall reduce to writing the evidence taken during such inquest and shall furnish a copy of the same to the Prison Commission and a copy of the same to the district judge of the county in which said prisoner died, and the copy so furnished to said district judge shall be turned over by the district judge to the succeeding grand jury, and the said judge shall charge the grand jury if there should be any suspicion of wrongdoing shown by the inquest papers to thoroughly investigate the cause of such death. Any officer or employe of the prison system having charge of any prisoner at the time of the death of such prisoner, who shall fail to immediately notify a justice of the peace of the death of such prisoner, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not less than one hundred dollars nor more than five hundred dollars, and by confinement in the county jail not less than sixty days nor more than one year; provided, that the justice of the peace making such examination shall be paid a fee as is now provided by law for holding inquests, said fee to be on sworn account therefor, approved by the Prison Commission.

Sec. 50. The Prison Commission shall provide for competent medical attention for all prisoners, and shall establish rules whereby all physicians shall be required to keep a record of all cases of sickness, accident or injury which they treat. The physicians so employed shall be reputable practicing physicians of not less than two years of experience in practice. Each physician employed in the prison system shall at the end of each month file with the Prison Commission a report in writing, subscribed and sworn to by him, which report shall state the names, race and sex of each prisoner treated, or examined by him during said month, the malady or disease with which each was afflicted, and if any shall be suffering with wounds or injuries inflicted by accident or some individual he shall state the nature and

extent of said injuries, by whom and by what means inflicted, or how the same occurred, and all such other information concerning said matters, and the condition of each prisoner treated or examined by him during said months as he may possess; provided further, that for a failure to make such a report or any false statement knowingly made by any such physician in any such reports he shall be prosecuted for the offense of perjury or false swearing, as provided by law.

Sec. 51. The Prison Commission shall also provide a competent dentist or dentists whose duty it shall be to care for the teeth of the prisoners; such dentist or dentists shall at the direction of the Prison Commission visit the various places where prisoners are kept or worked at such intervals as may be prescribed.

Sec. 52. When a prisoner is entitled to a discharge from prison he shall be furnished with a written or printed discharge from the Prison Commission, with seal affixed, signed by the Chairman of the Board of Prison Commissioners, giving the prisoner's name, date of sentence, from what county sentenced, amount of commutation received, if any, the trade he has learned, if any, his proficiency in same, and such other description as may be practicable. He shall be furnished with a decent outfit of citizen's clothing of good quality and fit, two suits of underwear, five dollars in money in addition to any money held to his credit and unredeemable and non-transferable railroad transportation to the nearest depot from whence sentenced, but, if such prisoner prefers, he may receive such transportation to any point in this State designated by him.

Sec. 53. The Governor, and all other members of the executive and judicial departments of the State, and members of the Legislature, shall be admitted into the prisons, camps and other places where prisoners are kept or worked, at all proper hours, for the purpose of observing the conduct thereof, and may hold conversation with the convicts, apart from all prison officers. Other persons may visit the penitentiary under such rules and regulations as may be established.

Sec. 54. The Prison Commission, with the Governor's approval, may offer such reward for the apprehension of an escaped prisoner as may be fixed by the Prison Commission, and to be paid as directed by the Prison Commission.

Sec. 55. Any officer or employe of the prison system who shall fraudulently convert to his own use and benefit any food, clothing or other property belonging to or under control of the prison system shall be guilty of theft, and upon conviction be punished as prescribed by law.

Sec. 56. Any officer, agent or employe in any capacity connected with the prison system of this State who shall be financially interested, either directly or indirectly, in any contract for the furnishing of supplies or property to the prison system, of the purchase of supplies or property for the prison system, or who shall be financially interested in any contract to which said prison system is a party, or who shall knowingly and fraudulently sell or dispose of any property belonging to said prison system below its reasonable market value, or who shall be financially interested in any other transaction connected with the prison system, shall be guilty of a felony, and upon conviction thereof shall be punished by confinement in the State penitentiary for a term of not less than two years nor more than five years, and each transaction shall constitute a separate offense.

Sec. 57. Any sergeant, guard or other officer or employe of the prison system of this State who shall inflict any punishment upon a prisoner not authorized by the rules of the prison system shall be guilty of an assault, and upon conviction thereof shall be punished as prescribed by law, and it shall be the duty of the Prison Commission to make complaint before the proper officer of any county in which such assault was committed upon such prisoner; provided, that in all cases where any person is charged by complaint or indictment with an offense against a prisoner, prisoners and ex-prisoners shall be permitted to testify.

Sec. 58. No gambling shall be permitted at any prison, farm or camp where prisoners are kept or worked. Any officer or employe engaging in or knowingly permitting gambling at any such prison, farm or camp shall be immediately dismissed from the service.

Sec. 59. The Prison Commission shall provide a seal whereon shall be engraved in the center a star of five points and the words "Board of Prison Commissioners of Texas" around the margin, which seal shall be used to attest all official acts.

Sec. 60. The Prison Commission, by

and with the consent of the Governor, shall have the power to work convicts on public works, when they can not employ them on the State farms or within the walls by reason of some unforeseen calamity, such as failure of crops, or the destruction of crops by wind or flood. When convicts are worked on public works owned by the State or a subdivision of the State, the humane provisions of this act shall be strictly complied with.

Sec. 61. Chapters 1, 2, 3, 4, 5, 6, 7 and 8, Title 79, of the Revised Statutes of 1895, relating to penitentiaries and their management, and all laws and parts of laws in conflict herewith, are hereby repealed.

Sec. 62. In view of the fact that the terms of office of the Superintendent, the Assistant Superintendent and the Financial Agent of the penitentiary system do not expire until about January 20, 1911, and the further fact that the penitentiary system is a large business enterprise, and to make the changes in the management thereof provided in this act will require some time, and the further fact that the crops grown upon the State farms are now being harvested, and the harvesting thereof will not be completed before January next, it is deemed expedient that this act shall take effect January 20, 1911, and not before, and it is so enacted.

Sec. 63. If any provision, or provisions, of this act shall be held invalid, the remaining provisions shall not be affected thereby, but the same shall be given full force and effect.

RECESS.

Pending the reading of the above report, on motion of Senator Murray, the Senate recessed until 2 o'clock today.

AFTER RECESS.

The Senate was called to order by Lieutenant Governor Davidson.

FREE CONFERENCE COMMITTEE ON SENATE BILL NO. 10.

Action recurred on the Free Conference Committee on Senate bill No. 10.

Pending discussion on the above, Senator Senter asked to have the following letter read, and asked unanimous consent to be printed in the Journal.

Following is the letter:

Seattle, Wash., September 1, 1910.

Hon. E. G. Senter, Senate Chamber, Austin, Texas.

My Dear Senter: Your favor of August 24 has just reached me, being delayed by my absence at my summer home on Orcas island.

I have never undertaken to formulate my ideas in opposition to the indeterminate sentence laws of this and some other States, but my most solemn and emphatic conviction is that they are unsound in principle, unjust in operation, and wholly unwarranted by any existing defect in laws such as have obtained in Texas since she became a State.

No doubt there is room and necessity for reform in the methods of penitentiary management and discipline, for the brutality and sordidness of modern prison methods in most countries are too well known to require exposure; but that does not require nor justify a wholesale revolution in our whole system of penal laws, much less a radical and ruinous departure from the well-settled principles and rules of criminal jurisprudence. This fad for reform and reorganization in our plain and practical institutions of criminal legislation is simply one of the prevailing crazes that have taken hold of the public mind in late days in the United States, born of a hysterical philanthropy that would obliterate all fundamental ideas of crime and punishments. It is part of the theoretical philosophy of life that has found its chief exponents among weak-minded men, preachers and meddlesome women. Oliver Wendell Holmes a long time ago said that "The desire to better the conditions of their fellow-men and to reconstruct society upon a Utopian basis leads many men and most women along the border line of insanity," and never was the truth of this statement more thoroughly demonstrated than in the numerous plans for making nice boys out of vicious weaklings in the juvenile court, and coddling desperate criminals on a diet of moral mush and milk doled out by prison parsons and gospel cranks, aided by those social pests—the modern female evangelists, who are in a perpetual spiritual sweat to manage somebody else's affairs and the country in general. All of this agitation along the lines of prison reform and a revolution in our system of penal laws and procedure emanates from that school of pestiferous marplots,

which had its birth in New England and has reached its maturity in Kansas and Colorado. Texas should have none of it.

Every thoughtful lawyer at all familiar with the criminal laws and procedures of this country knows that the Texas Code of Penal Law and Procedure is more nearly perfect in its conception of human rights and public protection and more nearly effective and just in its practical operation than that of any American State. The Supreme Court of the United States so stated in a well-considered opinion many years ago, and I myself know that your system is so far superior to anything that exists in this section that a man would be a fool to change it for the recently adopted code of Washington.

Now, as to indeterminate sentences:

They are fundamentally wrong and incompatible with the idea of certainty and accuracy in the administration of criminal justice. The wisest provision in the Texas code is the one that declares that no offense shall be punishable that is not accurately and definitely defined, and the exact punishment affixed thereto. To adopt the indeterminate sentence would be to abolish this most salutary and effective safeguard of human rights and liberties, a safeguard that has met the approval of your own courts for more than half a century and has challenged the admiration of all other courts in the country.

Again, to inaugurate the indeterminate sentence system is to take away from criminals that equality before the law that even convicts are entitled to demand, and it will inevitably beget a sense of helplessness, injustice and sullen resentment in the bosoms of the majority of the convicts that will be worse than any imaginary incentive to good behavior can overcome. Under the system as it prevails here and elsewhere that it has been adopted, the shortening of the sentence depends upon the convict's prison record as reported to the Board of Pardons or some other tribunal of that kind. That makes his term of service dependent upon personal favoritism among the prison officials, and personal, professional or political "pull" by his lawyer with the pardoning power. If he happens to have no influential friends to help him out, and is of a disposition not to curry favor or ingratiate himself with the officials in the penitentiary, he will serve out his full time and feel that he has been the victim of gross injustice, than which I

know of no more deadening and exasperating emotion in the human heart. Read a story that ran in the "Saturday Evening Post" some two years ago, being a fairly correct account of the experiences of the celebrated outlaw Tracy in the Oregon penitentiary. It was called "Number 10001," or some such title, and it shows only too plainly the abuses that grow out of permitting or encouraging a system of rewards and favors inside the penitentiary after a man has been convicted and sentenced by a court of justice. The true and just theory and practice should be to arraign a man on a definite and well-defined charge, for which the punishment has been accurately and certainly fixed in advance, and upon conviction he should be doomed to a definite and exact punishment, in the infliction of which he should stand in like case and upon strict equality with every other convict of the same class, instead of being subject to the capricious favoritism or disfavor of prison officials or fellow-prisoners. If any concession or commutation is to come to him, let it come as a gift of mercy, gratuitously and voluntarily bestowed, and not as the result of political lobbying and personal influence among outsiders or insiders. In no other way can the convict receive equal and exact justice or the law be sanely and safely satisfied. That is my judgment, based on reason, experience and considerable study of the subject.

Another disastrous result of a wholesale and radical change in your criminal laws and procedures will be the complete confusion and uncertainty that will be produced in the whole criminal jurisprudence of the State. The Texas criminal decisions, extending over a period of nearly three-quarters of a century, are justly considered among the soundest and wisest in the whole literature of the law, both in this country and abroad. Our people and the lawyers and courts know them and respect them, and to brush them all away by a bill to revolutionize the criminal code of the State would be not merely folly; it would be nothing less than a crime in itself.

This State was foolish enough to adopt a new code of criminal law and procedure outright at the last Legislature, and we are now suffering the consequences in the disordered and bewildered condition of our courts and trials. Nobody knows how much of it is unconstitutional or what most of it means, and

it will take ten years to clear away the wreck that has been wrought by such ill-timed and unnecessary legislation. A State's system of laws, derived from its statutes and decisions, is a part of its civilization and social fabric. It has grown up with the State's necessities and intelligence; it is bone of the bone and blood of the blood of the commonwealth itself, and no newly imported and ready made system, however perfect and desirable theoretically, can take its place and serve its purpose.

I have dashed off the above views hurriedly, and for what they are worth you can take them or reject them. I am sure that they are sound and defensible from all points of view, and I do hope you can defeat this new move to destroy the ancient landmarks that our fathers set up in the old times before us. Those men were wise in their own generation, and they builded for posterity with a patriotic prevision and prophetic ken that it is wanton wickedness to ignore, in search of some new-light phantom of reform bred from the maw of modern socialism.

Yours very truly,
DUDLEY G. WOOTEN.

SIMPLE RESOLUTIONS.

(By Unanimous Consent.)

By Senator Holsey:

Whereas, Master J. T. Wade, of Johnson county, a splendid youth of fourteen years of age, and a magnificent page of the last Senate, has just arrived in the city; and

Whereas, He has traveled many miles by himself for the express purpose of meeting the Senators that he served so well; therefore, be it

Resolved, That he be allowed the privileges of the floor of the Senate.

HOLSEY,
ALEXANDER,
WARD.

The resolution was read and adopted.

By Senator Peeler:

Be it resolved, That the thanks of this Senate be tendered to Mr. O. D. Parker, local agent of the Western Union Telegraph Company, for the daily weather reports furnished the Senate.

The resolution was read and adopted.

By Senator Terrell of Bowie (by unanimous consent):

The press of Texas having for years advocated reform in our penal institutions, and this agency together with efforts of certain public officials having brought about such a public demand for reform in these institutions as has resulted in the present reform measure now being passed in the Legislature of the State of Texas; therefore, be it

Resolved, first, That the thanks of this Senate be tendered to the press of the State; second, that the thanks of the Senate are especially tendered to those special correspondents of the great daily papers of the State who have made such an exhaustive study of the penal system and gave it to the public through their respective papers as to have resulted in the great reform measures that are now being passed through our bodies.

The resolution was read and adopted.

INVITATION TO ATTEND BANQUET.

By Senator Senter:

Dallas, Texas, September 8, 1910.

Hon. E. G. Senter, State Senator, Austin:

Upon your return to Dallas after adjournment of Legislature a large number of your friends desire to tender you a banquet, thus affording some slight recognition of your distinguished services as a Senator. I am commanded by them to request you to extend to the Lieutenant Governor and your fellow Senators and the Representatives from Dallas and Rockwall counties a cordial invitation to be present. Upon receipt of definite information as to adjournment we will advise you of date and hour of banquet.

W. H. PATTERSON,
Chairman.

On motion of Senator Mayfield, the above invitation was accepted by a rising vote.

EXCUSED.

On motion of Senator Ratliff, Senator Greer was excused from further attendance of this session, on account of important business.

(Senator Terrell of McLennan in the chair.)

SIMPLE RESOLUTION.

(By Unanimous Consent.)

By Senators Meachum, Alexander, Terrell of McLennan and Holsey:

Whereas, The Senate of Texas has received a telegram from our esteemed fellow Senator, John G. Willacy, as follows:

Corpus Christi, Texas, Sept. 5, 1910.

Senator McDonald Meachum, Senate Chamber, Austin, Texas.

My Dear Senator: Let me thank you for your letter of 3d instant, and especially for the generous expression of sympathy and friendship from yourself and our colleagues. Am pleased to say I am improving nicely, but regret my absence during the closing hours of the Senate. The esteem of its members has been my best physician, as their confidence is my most valued treasure. No life is wasted if in the end it can command the esteem of those who know us best; nor is there any higher encomium than an acknowledgment that public services have been useful. I shall not say "Good-bye." Let it be "Good night," or "Good day," in the hope that our footsteps may be guided toward each other frequently and our lives more and more interwoven with each advancing year.

Do not fail to remember me to our fearless, upright Lieutenant Governor.

Wishing each member and assistant God's richest blessing in prosperity and happiness, I am,

Sincerely and thankfully,

JOHN G. WILLACY.

And, whereas, Information that Senator Willacy is improving has been received, to the sincere gratification of the members of this body, and indications are that through the beneficence of a kindly Providence this able, useful and honorable public servant will be spared for further service; and

Whereas, By his upright conduct, his patriotic devotion to the public service, his genial disposition and manly deportment Senator Willacy has endeared himself to his colleagues of this body, who deeply sympathize with him in his illness, and wish for his speedy and permanent recovery to health; therefore, be it

Resolved, That in the closing hours of this Fourth Called Session of the Thirty-first Legislature we convey to Senator Willacy this message of our love

and esteem and our assurance that though he is unable to be with us in person, being stricken by illness, the memory of his genial spirit is ever present with us and he is not and shall not be forgotten. May He who guides and directs the destiny of all nations and people's spare our beloved friend for yet greater service and reward.

Resolved, further, That this resolution be printed in the Journal and that a copy hereof be forwarded by the Secretary of the Senate to Senator Willacy at his home in Corpus Christi, Texas.

The resolution was read and adopted by the following vote:

Yeas—22.

| | |
|-------------|----------------------|
| Adams. | Meachum. |
| Alexander. | Murray. |
| Brachfield. | Paulus. |
| Cofer. | Peeler. |
| Harper. | Ratliff. |
| Holsey. | Senter. |
| Hudspeth. | Terrell of McLennan. |
| Hume. | Terrell of Wise. |
| Kauffman. | Ward. |
| Kellie. | Watson. |
| Mayfield. | Weinert. |

Absent.

| | |
|--------|-------------------|
| Bryan. | Terrell of Bowie. |
| Real. | |

Absent—Excused.

| | |
|-----------|----------|
| Greer. | Veale. |
| Perkins. | Willacy. |
| Sturgeon. | |

SIMPLE RESOLUTION.

(By Unanimous Consent.)

By Senator Brachfield:

Whereas, The Fourth Called Session of the Thirty-first Legislature is drawing to a close; and,

Whereas, We desire to commend the officers and employes of this Senate for the faithful service performed by them; therefore, be it

Resolved, That we commend the officers and employes of this body for the prompt and efficient service rendered during this Called Session. Be it further

Resolved, That we especially commend the able, faithful and impartial services of the Hon. A. B. Davidson, President of the Senate, in presiding over this body. That he has at all times, as presiding officer of this Senate, been faithful to his duty, faithful to the public

service, fearless and impartial in the discharge of his duty, with the manifest purpose of doing "equal and exact justice to all," and with an eye single to the welfare of the whole people of Texas.

Resolved further, therefore, That it is appropriate that we, the members of the Senate, in recognition of the able, impartial and upright manner in which he has discharged the important duties of presiding officer, manifest to him our appreciation therefor, and we do here now express to him our thanks for his faithful and satisfactory service to this body and to the State of Texas. Be it further

Resolved, That this resolution be printed in the Journal, and that a certified copy of the resolution, certified by the Secretary of the Senate, be furnished said Hon. A. B. Davidson in testimony of the matters herein contained and of the esteem in which he is held by the membership of this body.

WATSON,
BRACHFIELD.

The resolution was read and adopted by the following vote:

Yeas—22.

| | |
|-------------|----------------------|
| Adams. | Meachum. |
| Alexander. | Murray. |
| Brachfield. | Paulus. |
| Cofer. | Peeler. |
| Harper. | Ratliff. |
| Holsey. | Senter. |
| Hudspeth. | Terrell of McLennan. |
| Hume. | Terrell of Wise. |
| Kauffman. | Ward. |
| Kellie. | Watson. |
| Mayfield. | Weinert. |

Absent.

| | |
|--------|-------------------|
| Bryan. | Terrell of Bowie. |
| Real. | |

Absent—Excused.

| | |
|-----------|----------|
| Greer. | Veale. |
| Perkins. | Willacy. |
| Sturgeon. | |

AT EASE.

Senate was at ease, subject to call of the Chair, and was again called to order by Lieutenant Governor Davidson.

On motion of Senator Hudspeth, the

EXCUSED.

On account of important business:

Senator Real for today and balance of this session, on motion of Senator Watson.

Senator Bryan since Tuesday and the balance of this session, on motion of Senator Holsey.

SECOND HOUSE MESSAGE.

Hall of the House of Representatives,
Austin, Texas, September 9, 1910.

Hon. A. B. Davidson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has adopted the Free Conference Committee report on Senate bill No. 10.

Respectfully,

BOB BARKER,

Chief Clerk, House of Representatives.

FREE CONFERENCE COMMITTEE REPORT ON SENATE BILL NO. 10.

Action recurred on the Free Conference Committee report on Senate bill No. 10, and the same was adopted by the following vote:

Yeas—22.

| | |
|-------------|----------------------|
| Adams. | Murray. |
| Alexander. | Paulus. |
| Brachfield. | Peeler. |
| Cofer. | Ratliff. |
| Harper. | Senter. |
| Holsey. | Terrell of Bowie. |
| Hudspeth. | Terrell of McLennan. |
| Kauffman. | Terrell of Wise. |
| Kellie. | Ward. |
| Mayfield. | Watson. |
| Meachum. | Weinert. |

Nays—1.

Hume.

Absent—Excused.

| | |
|----------|-----------|
| Bryan. | Sturgeon. |
| Greer. | Veale. |
| Perkins. | Willacy. |
| Real. | |

Senator Weinert moved to reconsider the vote by which the report was adopted, and lay that motion on the table.

The motion to table prevailed.

REASONS FOR VOTING.

Believing that an all-wise Creator will in time inspire in the hearts of the Legislators such a repulsive sentiment against corporal punishment in the prison system, and further believing that the proposed law, with the exception of the clause permitting the use of the "strap or bat" to be a great improvement over the laws on our statute books today, and that the public conscience is just beginning to awaken to the horrible condition prevailing in our prison system, to the end that still better legislation than this will be enacted, I vote "aye" on the Free Conference report to Senate bill No. 10, the penitentiary bill. We are living in a civilized age, barbarities such as the "Bull Durham," the drunken guard, with his trained dogs and bull whips, like all other relics of barbarism, must go. I believe that under this law such a high order of men will be selected to manage our prison system that, although against my wishes the "bat" was retained, still its use is hedged about with so many "safeguards" that the many brutalities of the past will be greatly diminished. The proponents of the bat cry against the opponents of the bat "sickly sentiment." Well, I may err, and have many times in my legislative career, but God being my witness, I sincerely trust that when I do err, it will always be on the side of humanity.

HUDSPETH.

The penitentiary bill in its present completed form as it comes from the Conference Committee eliminates the features of the Senate bill, which we considered objectionable, in that the half million dollar appropriation is cut out, the proposal to allow convicts to testify in all cases, civil and criminal, is eliminated and substituted by a proper provision to allow such evidence only when the charge involves mistreatment of a convict, and a just parole proposition has been placed in the bill in lieu of the Senate provision; therefore, we vote for the measure in the interest of prison reform, which we favor. Among the many wise reforms in the bill are Section 58, proscribing all forms of gambling in the penitentiary on the part of convicts, guards and all others, and Section 29, forbidding the appointment of any guard who is in any way addicted to the use of intoxicating liquors. The leaders of this great reform have at last, for once, voted to suspend the

"personal liberty" of the individual and to establish at least a few absolutely dry spots in Texas.

COFER,
BRACHFIELD.

JOINT SESSION.

In accordance with former action to-day, the Senate, at 3:50 o'clock p. m., repaired to the Hall of the House of Representatives, there to attend the address of Governor Campbell, the Senate having agreed, by motion, to recess until 8 o'clock tonight, when it returned from the House.

RECEPTION TO GOVERNOR T. M. CAMPBELL.

At 3:50 o'clock p. m. the Honorable Senate of Texas was announced at the bar of the House, and, accompanied by Sergeant-at-Arms Hornbuckle, Secretary Clyde D. Smith and Journal Clerk R. M. Gilmore, the Senators advanced into the Hall and occupied seats already prepared for them.

Hon. A. B. Davidson, President of the Senate, was invited to a seat on the rostrum by the Speaker.

At 3:55 o'clock p. m. Governor Campbell, under the escort of Messrs. Elliott, Spradley and Bartlett, the committee heretofore appointed, appeared at the bar of the House, and approached the Speaker's stand.

Governor Campbell was then presented to the Joint Session of the Legislature and the assemblage by Speaker Marshall, who said:

Senators, Gentlemen of the House, Ladies and Gentlemen:

In this, the closing hours of the Thirty-first Legislature, it is fitting, and we are delighted to "pay him honor to whom honor is due." His courage, his wisdom, his executive ability and the strength of his character will leave its impress, and his name will be forever and indelibly written in the pages of the history of our great State.

I present to you the friend of the people—our Governor. (Long applause.)

Governor Campbell then spoke as follows:

Mr. Speaker, Mr. President, Gentlemen of the Legislature, Ladies and Gentlemen:

I thank you very much for the cordial reception you give me. It is probably

not fitting, nor do I suppose that I am expected to speak at any great length. And yet, it would not be courteous to you nor in keeping with my own inclination were I not to make some response to your generous invitation. Your resolution inviting me to address you at this time does me a great honor, and I am grateful for the complimentary introduction accorded me by my more than partial friend, Hon. John Marshall.

The record of this House made in the Third and Fourth Called Sessions is creditable, and I congratulate you and the people of Texas upon the work done. (Applause.) Indeed, this great representative body has so borne itself at all times as to merit the commendation of honest men everywhere. (Renewed applause.) It is an honor to any man to address the membership of this House upon its invitation. It has upheld my hands at every turn, and I thank those who have co-operated with me. I wish also to thank both houses of this Legislature for the co-operation in those things tending to promote the welfare of the people and the honor of our State.

A brief review of legislation and of the policies enforced during the present administration is probably expected, and is deemed appropriate on this occasion. Four years ago I received from the Democracy of this State the nomination for Governor. With the nomination went a platform of principles and policies which not only met my approval, but which represented the heart and conscience of the great toiling and producing masses of our people. I had made my campaign on living issues of vital moment. Questions of commanding importance were discussed before the people throughout that campaign. My candidacy had nothing either secretive or furtive about it. I was ambitious to attain the Governorship, not for the honor alone, but also for the good that I hoped to achieve. I was elected at the general election in November, 1906, and with me was elected a Legislature that will, for its useful service and its fidelity to the people, ever be memorable in the history of this great commonwealth. (Applause.) Sustained by that great representative body and backed by the loyal Democrats of the State, practically every pledge made by the Democratic party to the people was redeemed. We gave a practical demonstration of the fact that the people can rule when they will, and of the untruth of the

statement that platforms were only made to get into office on. In a second campaign upon the record already made and upon issues involving other needed legislation, I was again nominated, and was re-elected in November, 1908, upon a platform made and endorsed by the people, and every pledge contained in that platform that could be redeemed by legislative enactment and administrative policies was redeemed in letter and spirit. (Applause.) In carrying the people's will into laws, obstacles were encountered at every step. The subsidized newspapers and that miserable brood of hired politicians then infesting this capital opposed the enactment of all good laws, and afterwards sought, and still seek, by malignant misrepresentation, to mislead the masses of the people in whose interest they were passed. The platform demand for the submission of a constitutional amendment providing for Statewide prohibition to a vote of the people was defeated in the Regular Session. Having been defeated in Regular Session, it was lost, as a Called Session of the Legislature can not submit constitutional amendments. I have never agreed that it was proper for the Legislature to refuse to submit this question as the platform of the State Democracy demanded, but I have never found it in my heart to condemn those legislators who had agreed to abide by the result of the election in their respective districts and who had become candidates, pledging themselves to obey the instructions of their districts. I believe, however, that they made a mistake. I believe that on general questions involving State policies that the action of the State Democracy and the demands of the State platform should control the Governor and the Legislature. In matters purely local the county or district can with propriety direct its representatives, but in matters pertaining to the State as a unit and in State primary elections and conventions in which the county and district participate, they all become bound by the general policy enunciated by the State platform, and, as Democrats and patriots bind themselves, they should remain bound for the good of the State and of all the people. (Applause.) Much has been said and much has been written tending to reflect upon the integrity of members of this Legislature. Charges have been made that money and other undue influences were employed to defeat the submission of the

prohibition amendment and to otherwise corrupt the Legislature. In my heart I do not believe that a single dollar has ever been used to corrupt the membership of this Legislature. (Applause.) I do believe, however, that if money was sent to the agents of special interests here in Austin to corrupt the legislators and to influence legislation that the scoundrels who received it put it in their own pockets, and at the same time induced the contributors to believe that they were using the money to corrupt the people's representatives. (Applause.) I believe, further, that if there ever was a law needed, it was the measure introduced under a subject given to the Third Called Session of this Legislature prohibiting saloons and breweries from contributing to political campaign funds. (Applause.) It is needed not only for the protection of the ballot in its purity, but also for the protection of the breweries and saloons from the exactions of this brood of hired grafters and politicians who are using the liquor question as a pretext for robbing and plundering them. (Laughter and applause.) The breweries and saloons are licensed by law, and as long as their business is legalized, there is, on the part of the State, an implied promise of protection under the law, and I, for one, favor such protection by adequate laws. And again, I believe that the bill introduced in the Third Called Session prohibiting the sale of liquor within ten miles of our great State University should have been passed. (Prolonged cheering and applause.) The bright young manhood of Texas, the flower of this State, who come to the University for their education and who will some day be charged with the duty and responsibility of guiding Texas in her growth and to her higher and brighter destiny and who will participate in guiding the old ship of state, should be protected from the nefarious influences of the saloon. This is a proposition that has found a response in the great heart of the people of Texas. It will not down, and you and I will live to see the day when there will not be a saloon nor a dive within ten miles of our State University. (Applause.) I also proposed a law under which saloons would be closed at nightfall and remain closed during the darkness of night. That bill was defeated. Most of the crime attributable to the saloon and its evil influences occurs under the shadows of night. These are not prohibition meas-

ures. They are regulatory. The opponents of such restrictions always claim that while they oppose prohibition they favor regulation, but it is a noticeable fact that they only favor regulations and regulatory measures when they can't help themselves. (Much applause.) You enacted some good laws strengthening local option during the Third Called Session, which I am sure the people will appreciate. You may depend upon it that the patriotic men of Texas will attend to this other business later on. (Applause.)

We have had four called sessions of this Legislature, and all for the good of Texas. Those who complain at called sessions of the Legislature should look at the results and should consult the laws of the two called sessions of the Thirtieth Legislature and of the four called sessions of this Legislature. I do not regret any extra session of my administration, because we have gotten something good for the people of our State out of each call that I have made. In these battles for the masses of the people, I have tried to be patient, and, gentlemen of the Legislature, no one knows better than you, that I have been patient. (Laughter and applause.) The ends sought justified patience, and the victories won for the people are ample rewards for me and for those co-operating in the good work. (Applause.)

Let any man call the roll of the splendid legislative achievements entered to the credit of the Democratic party during my administration, and who is not proud to belong to a party with such a record? We drove the professional lobbyist from our legislative halls; yes, at least, from our legislative halls. We prohibited insolvent corporations from doing business in Texas. We prohibited by an effective law the free pass evil, destroyed its power for harm and paved the way in some future time for reduced passenger and freight rates. These three propositions embodied the remaining reforms, the unfinished work of the immortal, the sainted Governor Hogg. (Applause.) We drove the bucket shop gambler from the borders of our State. (Applause.) An evil that was breaking more lives, blighting more homes and destroying more fortunes than all the gambling devices in Christendom. We put a stop to the practice of nepotism, a practice that was impairing the efficiency of the public service everywhere. We put the gambler out of business and put out, let it be

hoped forever, the lights in his palace of hell. (Applause.) Race track gambling is now prohibited. Bootlegging was made a felony. A law making the occupation of selling liquor in local option territory a felony put the blind tigers out of business. (Applause.) We established with proper safeguards and checks a new system of accounting in the departments of the State Treasury, Comptroller and General Land Office in lieu of the crude and inadequate system heretofore obtaining, and we now have an up-to-date accounting system. The reorganization of these departments under the new laws will not only add to their efficiency, but will result in an annual saving of thousands of dollars to the taxpayers of Texas. We established a fair system of uniform and just rendition of property for taxation, by which an unjust burden was lifted from the shoulders of the honest man with moderate means and the tax dodgers and corporations made to pay some fair share of taxation. To lighten the burdens unjustly borne by the masses of the people, it became necessary to explore new fields for revenue and to tax by other than ad valorem methods those interests and those corporations that were receiving the protection of the government and not contributing their just share of the expenses. The corporation tax laws enacted include the gross receipts tax law, intangible tax law, franchise tax law, charter fees, permit fee law, and then the increased occupation tax on the liquor business, while the occupation tax on all useful occupations was abolished. The property taxpayer and home-owners, who had theretofore paid more than their share of the taxes, are the beneficiaries. To illustrate, the man with a home worth \$2500 paid \$5 State ad valorem taxes in 1906, and this year he will pay only \$1 for the support of the State government on the same \$2500 home. (Applause.) The tax on the home for State purposes is almost wiped out and on the small home it should be, so that the people will be encouraged to acquire homes. Rivet the man to a home and he will love his country more. I have never said that the small home should be exempted from taxation for school, county and local purposes, but that an exemption of the home to the extent of \$2000 or \$2500 for State purposes is practicable, and to the end that the lightest possible burden should be laid upon the home this should be done.

The State ad valorem taxes collected

in 1906 were \$2,450,000. And so well has the new system worked that we have to collect only about \$940,000 State ad valorem taxes this year. The great reduction in taxation against the property of the masses of the people here shown has been made notwithstanding the fact that the appropriations to be provided for the current fiscal year for the support of the State government exceeded those of 1906, the year before the new system was enacted, by about \$500,000, counting the deficiencies that were paid for that period. The values have increased, of course, but the tax rate was reduced under the operation of the new automatic tax law from 20 cents in 1906 to 12½ cents in 1907, to 6½ cents in 1908, to 5 cents in 1909, and further reduced to 4 cents on the \$100 in 1910. (Applause.) The State school rate reduced to 16⅔ cents and the average county rate reduced from 56 cents to 43 cents. A record without parallel, as I believe, in the American Union. (Applause.) Confronted as we were on the date of my induction into the office of Governor with an estimated deficiency of \$300,000, taxes have been reduced, less money has been taken from the people in proportion to property owned for the support of their State government than ever before, and we have \$1,311,788.29 in the State Treasury to the credit of general revenue today. An unparalleled impetus has been given to all public improvements and the financial condition of the counties of Texas are in a healthier state than ever before.

The appropriations to meet the State's requirements which must be provided for the present fiscal year amounts to approximately \$3,700,000, only \$940,000 of which must be collected on the tax rolls of the State, and under the new intangible tax law more than \$175,000,000 of intangible values of railroads go upon the tax rolls this year, by virtue of the new intangible tax law, to assist the people in paying that comparatively small sum. The balance of \$2,760,000 comes from other sources not heretofore yielding their just share of the expense of the State government, and largely as a result of the new laws. These intangible values of railroads now yield about \$900,000 in county taxes and thus aid in reducing the rate, and consequently the tax burden upon the people in the counties, and they swell the State's available school fund about \$300,000 an-

nually, and the general revenue more than \$60,000.

My critics are continually promising a deficiency and a depleted State Treasury, notwithstanding the healthy condition of our State Treasury, as now shown. The deficiency refuses to materialize and they are, of course, disconcerted and disappointed. Under the new automatic tax law a deficiency need not occur, as a method is prescribed by which the tax rate is fixed to meet the necessities of the government after the taxable values of each year have been ascertained. They deride and question the wisdom of the present low tax rate. I have always believed that it was a crime to take one single dollar from the people in the way of taxes that is not needed in an honest and economical administration of our government. (Applause.) Under the new automatic tax law the low rate of 4 cents this year will yield revenue sufficient to meet the State's necessities, and that rate was accordingly fixed. In view of the State's prosperity and of the splendid condition of all of our State institutions, I can imagine no excuse for increasing appropriations in the near future. (Applause.) Appropriate economy in the administration of our State government and the rigid enforcement of our corporation tax laws will obviate the necessity for increasing the tax rate and the tax burdens on the people. Extravagance in government and failure to enforce the law has never been and will never be accepted as a justification for unduly burdening the people with taxes. (Applause.)

We have been able, too, within this time, by means of these and other wise tax measures, for the first time in our history, to insure an average school term of more than six months throughout the State. (Applause.) This year the State apportions \$1,998,180 more money than was ever furnished by the State to free schools during any year prior to this administration. An average increase of more than \$12 per month is being paid the teachers in the public schools, and a higher order of efficiency thereby secured. Over \$5,000,000 have been expended in building new schoolhouses in the last three years.

An Agricultural Department, along the lines advocated by me in the campaign of 1906, was established, and in its general usefulness and commanding importance that department is not sur-

passed by any department in the State government. (Applause.)

During my time, labor has indeed come into her own. A Labor Bureau, destined under wise management to be of incalculable benefit to all the people of Texas, has been established. About twenty-eight laws, all fair and just, have been enacted at the request of organized labor, and that law recently enacted and now known as the I. & G. N. claim bill, and which in reality was an amendment to the stock and bond law, is of general interest to all the people and is probably of more importance to labor than any measure heretofore enacted. This measure alone is worth to Texas the expense of forty called sessions of the Legislature. (Applause.) An effective mine inspection law has been passed, also a law against blacklisting. The laws strengthening our anti-trust laws, and providing for their enforcement, have already borne good fruit.

Laws better regulating the liquor traffic and other laws making more effective and making more certain the enforcement of the local option laws. Our life insurance laws have been overhauled and that admirable achievement in useful legislation, the Robertson insurance law, holds millions of dollars in Texas annually to enrich our own people, that was formerly taken from Texas and Texas people under a system of laws and of business wholly indefensible. We have, in obedience to the platform and against much opposition, placed on the statute books of Texas a law guaranteeing deposits in State banks, and I hazard nothing in saying that Texas now has the best bank guaranty law ever devised or enacted. All this and more has during my administration been accomplished.

Recognizing the inequalities and unjust discriminations in the matter of fire insurance rates applied on property insured by the companies doing business in Texas, this Legislature at a former called session enacted a law having for its object the regulation of fire insurance premium rates and to adjust such premium rates upon a more equitable basis. The small insurer and small property owner and the small town were paying a higher rate of fire insurance premium than the large insurer and a higher average rate than those in some of the favored cities or localities. The law as enacted was based upon sound business principles, but was defectively constructed, and further legislation was

demanding for the protection of the insuring public against the unusual exactions of the insurance companies. This Legislature has undertaken, and I believe has succeeded, in enacting a workable law, and, under its terms, I feel safe in assuring you and the general public that at least 90 per cent of the people who carry fire insurance will have reduced rates, and that the other 10 per cent of the people will be protected against unjust rates and against unjust discriminations. The law is not just as I would have framed it, but if experience should show that it is not sufficiently effective to meet the objects sought, such amendments can be made by future legislation as may be necessary and such defects as experience may disclose can be cured. The principle of regulating fire insurance rates by law is, in my judgment, sound and should be maintained as a fixed policy of the State.

At the beginning of this administration there were more than four hundred insane patients confined in the county jails for want of accommodations at the State asylums for the insane. Room was provided and the jails were cleared in 1908 of all the unfortunate insane, for the first time in many years, and today there are accommodations for about one hundred and fifty additional white patients. (Applause.) If there is an insane white man or white woman in a jail in Texas, it is the fault of the local authorities. There are less than seventy-five negro insane in the county jails at this time, and they have been provided for at the present Called Session of the Legislature.

The Confederate Soldiers' Home at Austin is today more perfect in all its appointments than ever before. There are about three hundred and eighty soldiers residing at the Home; about sixty more than under any former administration, and there is room for every applicant now. There is for the first time in many years not one on the waiting list. Every applicant has been admitted and at this beautiful rest for the Confederate soldier everybody seems contented and happy. It is, indeed, a happy home. (Applause.)

The State's educational institutions, including our State University, the A. and M. College, the three State Normals, the Prairie View Normal for Colored Youths, the Deaf and Dumb Institute, the Blind Institute, and the Deaf, Dumb and Blind Institute for

Colored Youths, and the Girls' Industrial School at Denton, have each been provided with additional buildings, and more general improvements and equipment than in any like period in their history, and by an act of this Legislature another Normal School has been established at Canyon City, provided with buildings and equipment unsurpassed by any educational institution of its kind in the United States. The eleemosynary institutions, including the Orphan Home, have had every requirement met and every obligation of the State in this regard discharged, and each and all of them, as I believe, have been and are being efficiently managed.

During my first campaign I discussed the necessity for reform in our penitentiary system. In referring to the expressions of dissatisfaction with our prison system covering a period of many years, I pledged myself to needed reforms in that regard. Upon my induction into office of Governor, I made known to the penitentiary management the lines along which reforms should be inaugurated, and good results have been secured. Prior to the assembling of the Thirty-first Legislature, there was a renewal of the agitation for further reforms and, in sympathy as I was with any suggestion for the correction for all time of any abuses in the system and in the betterment of conditions, I recommended that the Legislature provide for a thorough investigation of prison affairs. That this investigation might be more effective, I participated in drafting the bill, suggesting amendments giving to the committee to be appointed more power and to the law a broader sweep, so that the work when completed would be of value to the Legislature in dealing with such permanent reforms as should be enacted into law. I see before me the author of the bill, and I call upon him to verify that statement. (Senator Meachum answered that the statement was correct.) The law was enacted and the committee appointed thereunder performed its duty in a most creditable manner. In submitting this subject to this Called Session, I transmitted the reports of the committee and all the evidence taken. I am pleased to state that the Investigating Committee recognized the reforms put into effect during this administration. The investigation covered a period of many years, during which time intolerable abuses were disclosed, but every member of the committee assured me personally that

from their personal inspection and from all the evidence taken they found that the present administration had made greater progress in intelligent reform than ever before, and that in the methods of employment and in the matter of treatment and care of convicts, in their clothing, feeding, housing and general management and humane discipline, greater improvement had been made along humanitarian lines than in any fifteen years before. (Noting the presence of the members of the Penitentiary Investigating Committee, the Governor asked them if his statement was correct, whereupon Senators Hudspeth and Weinert and other members of the Investigating Committee answered that it was.) The death rate is a fair index to the manner of life and living as well as to the care and treatment of the inmates of prisons. In the year 1908 there were 52 deaths from all causes out of a prison population averaging nearly 3600. In 1909 there were 50 deaths, and up to this time this year there have been only 18 deaths from all causes. A lower death rate according to population than can be shown by any town or city in the country according to the assurance given to me by the State Health Department. (Applause.)

Notwithstanding the tremendous expense incident to the improvement of the prison buildings and the facilities for the better care of convicts, the report of the Investigating Committee, transmitted to you, show a greater net profit from operation during the first three years of this administration, which was covered by their investigation, than could be shown during the entire history of the State penitentiaries. The members of the committee are before me now, and if the statement is not correct, I ask them to correct me.

The outlook for the present year is hopeful, and there is every reason to expect a good showing financially and otherwise.

I have not had an opportunity to see the bill you have passed, and only know in a general way its contents. I hope we have a good law. These reforms must go on, and whether you have a good law or not, these reforms and improvements and the humane treatment of convicts will be continued while I occupy the Governor's office. (Applause.) And right here I will say that it is my deliberate opinion that the State Railroad should not be sold. It should be

extended and operated in the interest of the people.

And let it always be remembered that during all this time, notwithstanding the widespread panic in the fall of 1907, and the unprecedented drouth in some sections of the State, there has never been a loss of a single dollar to a depositor in a State bank of this State, and there has never been for one moment any failure to meet every obligation of the State.

I have protected the State's honor and the State's credit, which I have regarded almost as sacred as my own. To do this it became necessary to secure the submission of two constitutional amendments, validating certain of her school district bonds and obligations running into millions. And let it be remembered, further, that during all this time, notwithstanding the opposition and misrepresentations encountered, some of which came from certain of our well-meaning but misled people, we have grown and prospered as never before in any like period, and without a parallel in any land or country. (Applause.) Immigration has poured into our State in an unbroken stream. Our State has grown in wealth, and new capital has taken residence among us, and every dollar of it has been provided with ample safeguards and protection. And let it never be forgotten, a fact which too many of our people seem to forget, that during these years that more capital has been invested in railways and more miles of railroad have been built than during any four years in the last twenty-five years, and there is at this time under construction and being projected for the current year a still greater railroad mileage. There has been during the last three years a growth and development in commercial, agricultural and manufacturing enterprises without parallel in any like period in our State's history. (Applause.)

On May 2, 1907, and just before any of the new laws took effect, we had 233 State banks, with a total capital and surplus of about \$8,000,000, and individual deposits amounting to \$16,317,395.97. On June 31 of this year we had 531 State banks, with a total capital and surplus of over \$16,000,000, and carrying deposits amounting to more than \$52,000,000, and there are more than 600 State banks in Texas today and every dollar on deposit with them is secured by a good law. (Applause.)

Our taxable values have increased

from \$1,225,000,000 in 1906 to over \$2-360,000,000 in 1910. It is worth something to have been Governor of Texas during such an era and to have had some part in accomplishing so much for the good of our people and the glory of our State. I have been assailed and misrepresented probably more than any man who ever held a public office in Texas. The subsidized newspaper, the grafter, the lobbyist, the political hirelings, the agents of special interests, have all delighted to libel me, and I have delighted in their opposition. (Applause.) However, since I came into the office of Governor, no one has been Governor except T. M. Campbell. (Great applause.) The interests nor their "fixers" have been Governor, and will not be while I occupy that exalted station. I have not performed one single official act that I would not perform again, and during my time I have not recommended the enactment of a law that I would not recommend again. (Applause.) But my work will soon be finished, and my term is soon to close. My day's work will soon have been done, and my public service may be at an end. (Voices, "no, no.") Now, whatever may betide you and me, I beg you to know and believe that though we may at times have differed, in every hour of every day since I have been Governor and in every official act during that time, I have had in mind and on my heart only the good of the people who have twice, by generous majorities, made me their Chief Executive. To be Governor of this great State is indeed a great honor. Great as is the honor, the responsibilities are yet greater. Knowing something of these burdens, I bespeak not only for myself, but for him who is to succeed me, in all that makes for good, the cordial approval and patriotic support of the liberty-loving people of Texas. (Applause.)

Gentlemen of the Thirty-first Legislature, in bidding you adieu, I wish to assure you of my esteem for you and to thank those of you who have aided me in our battles for the people for your generous co-operation. I thank you. (Cheers and applause.)

SENATE RETIRES.

At the conclusion of Governor Campbell's address, Lieutenant Governor Davidson stated that the Senate would retire to its Chamber, whereupon the Honorable Senate retired from the Hall.

IN THE SENATE.

The Senate returned to its Chamber at 5 o'clock p. m., Lieutenant Governor Davidson presiding.

SIMPLE RESOLUTION.

By Senator Terrell of Wise:

Whereas, Hons. F. C. Weinert, Claude B. Hudspeth, D. A. Paulus and W. J. Greer, in compliance with an act passed by the Thirty-first Legislature of Texas, made a careful investigation of our penitentiary system, and by their great ability, untiring energy and lofty patriotism, Texas will have one of the best prison systems of any State in the Union; be it

Resolved, That the thanks of this body are hereby extended to them for their faithful services.

TERRELL of Wise,
RATLIFF,
COFER,
PEELER,
TERRELL of Bowie.

The resolution was read and adopted.

GOVERNOR CAMPBELL'S SPEECH TO BE PRINTED IN THE JOURNAL.

Here Senator Holsey moved that the speech by Governor Campbell, delivered to the Legislature today, be printed in the Journal.

The motion prevailed.

SENATE CONCURRENT RESOLUTION NO. 3—ADOPTION OF.

(Floor Report.)

Austin, Texas, September 9, 1910.

Hon. A. B. Davidson, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred

Senate Concurrent Resolution No. 3, Be it resolved by the Senate, the House of Representatives concurring, That the Fourth Special Session of the Thirty-first Legislature of Texas do stand adjourned sine die at 10 o'clock a. m., September 8, A. D. 1910.

Have had same under consideration, and beg leave to report it back to the Senate, with the recommendation that it do pass, and be not printed, with the following (committee) amendment:

Strike out 10 o'clock a. m. September 8, A. D. 1910," and insert in lieu thereof the following: "10 o'clock a. m. September 10, A. D. 1910."

PEELER, Chairman;
COFER,
RATLIFE,
WARD,
ALEXANDER.

The above committee report, having been filed, on motion of Senator Peeler, the Senate rule requiring committee reports to lie over for one day was suspended, for the purpose of considering this resolution, by the following vote:

Yeas—22.

| | |
|-------------|-------------------|
| Adams. | Meachum. |
| Alexander. | Murray. |
| Brachfield. | Paulus. |
| Cofer. | Peeler. |
| Harper. | Ratliff. |
| Holsey. | Senter. |
| Hudspeth. | Terrell of Bowie. |
| Hume. | Terrell of Wise. |
| Kauffman. | Ward. |
| Kellie. | Watson. |
| Mayfield. | Weinert. |

Absent.

Terrell of McLennan.

Absent—Excused.

| | |
|----------|-----------|
| Bryan. | Sturgeon. |
| Greer. | Veale. |
| Perkins. | Willacy. |
| Real. | |

On motion of Senator Peeler, the committee report, with an amendment, and which provided that the resolution be not printed, was adopted.

The Chair laid before the Senate, Senate Concurrent Resolution No. 3, a resolution fixing tomorrow at 10 o'clock a. m., September 10, 1910, for the Fourth Called Session of the Thirty-first Legislature to adjourn sine die.

The resolution was read and adopted by the following vote:

Yeas—23.

| | |
|-------------|-------------------|
| Adams. | Kellie. |
| Alexander. | Mayfield. |
| Brachfield. | Meachum. |
| Cofer. | Murray. |
| Harper. | Paulus. |
| Holsey. | Peeler. |
| Hudspeth. | Ratliff. |
| Hume. | Senter. |
| Kauffman. | Terrell of Bowie. |

| | |
|----------------------|----------|
| Terrell of McLennan. | Watson. |
| Terrell of Wise. | Weinert. |
| Ward. | |

Absent—Excused.

| | |
|----------|-----------|
| Bryan. | Sturgeon. |
| Greer. | Veale. |
| Perkins. | Willacy. |
| Real. | |

THIRD HOUSE MESSAGE.

Hall of the House of Representatives,
Austin, Texas, September 9, 1910.

Hon. A. B. Davidson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

Senate Concurrent Resolution No. 3, relative to sine die adjournment of the Fourth Called Session of the Thirty-first Legislature at 10 o'clock a. m., September 10, A. D. 1910.

Respectfully,

BOB BARKER,
Chief Clerk, House of Representatives.

PRESIDENT PRO TEM.—ELECTION OF.

The Chair here announced that the election of a President Pro Tem. for the ensuing vacation would be in order, and called for nominations.

Senator Hume, in a short speech, nominated Senator Weinert for that place.

Senators Cofer, Meachum, Holsey, Watson, Senter, Hudspeth, Murray and Alexander seconded the nomination.

There being no other nominations, the Chair declared nominations closed, and directed the Senators to prepare their ballots.

Senators Mayfield, Terrell of Bowie and Kauffman were appointed as tellers to count the votes.

Senator Weinert received 22 votes (all the votes cast), and was declared duly and constitutionally elected President Pro Tem. at the latter term of the Fourth Called Session of the Thirty-first Legislature.

President Pro Tem.-elect Weinert was escorted to the President's stand by Senators Cofer, Terrell of Wise and Murray, whereupon the constitutional oath of office was administered him by Lieutenant Governor Davidson.

Senator Weinert then addressed the Senate with a few minutes' speech, be-

ing introduced by Lieutenant Governor Davidson.

RECESS.

Senator Meachum moved that the Senate recess until 8:30 o'clock tonight.

AFTER RECESS.

The Senate was called to order by President Pro Tem. Weinert.

There being no legislative business on the calendar, the evening was taken up by speeches, etc.

RECESS.

At 11:15 o'clock the Senate, on motion of Senator Mayfield, recessed until 9 o'clock tomorrow morning, September 10, 1910.

AFTER RECESS.

The Senate was called to order by Lieutenant Governor Davidson.

SIMPLE RESOLUTION RESCINDED.

Senator Watson here moved to rescind the action of the Senate on a former day, which provided that all the general bills passed by the Third and Fourth Called Sessions be printed in the last day's Journal.

The motion to rescind prevailed.

NOTIFICATION COMMITTEES.

Senator Brachfield moved that the Senate appoint a committee of three Senators to notify the Governor that the Senate was about to complete its labors, and would be ready to adjourn at 10 o'clock today, and that a like committee be appointed to notify the House.

The motion prevailed, and the Chair appointed the following committees:

To notify the Governor: Senators Holsey, Terrell of Bowie and Kellie.

To notify the House: Senators Brachfield, Alexander and Senter.

SIMPLE RESOLUTION.

By Senator Meachum:

Whereas, That great Democratic daily paper of Texas, the Houston Post, has

been ably represented upon this floor in reporting the proceedings of this body by its staff correspondent, J. E. Rosser; and,

Whereas, It is fitting that we express to the Houston Daily Post and to the said J. E. Rosser our appreciation of the fair, impartial and correct manner in which the proceedings of this body have been reported; therefore, be it

Resolved, That we do hereby express our appreciation to both the Houston Post and the said J. E. Rosser for the courtesies extended this body and for its fearless, accurate and impartial reports of the proceedings that have here transpired.

Resolved further, That this resolution be printed in the Journal, and a copy thereof by furnished the said The Houston Post and J. E. Rosser by the Secretary of the Senate.

MEACHUM,
WATSON,
HUDSPETH,
HUME.

The resolution was read and adopted, and, on motion of Senator Hudspeth, Mr. Rosser was invited to address the Senate. He was presented to the Senate and made a short talk.

COMMITTEE FROM HOUSE.

A committee from the House of Representatives appeared at the bar of the Senate, and notified the Senate that the House had completed its labors and was ready to adjourn.

THANKS BY CAPTAIN ZUBER.

Senator Meachum, on behalf of and at the request of Captain W. P. Zuber, thanked the Senate for the courtesies shown him for the purchase of his picture, now hanging in the Senate Chamber.

REPORT OF NOTIFICATION COMMITTEES.

The committees to notify the Governor and the House of the intentions of the Senate's adjournment made their reports, and were discharged.

REASON FOR VOTE ON PENITENTIARY BILL.

I am opposed to the use of the strap, and think the bill does not provide fully

enough for convicts testifying on trials of parties who are charged with offenses against prisoners, and have other objections to the bill, but as it provides for great reforms in our penal institutions, and is the best I can get, I vote for the bill.

TERRELL of Bowie.

BILLS SIGNED.

The Chair (Lieutenant Governor Davidson) gave notice of signing, and did sign, in the presence of the Senate, after their captions had been read, the following bills:

Free Conference Committee Substitute for House bill No. 9, "An Act requiring all railroads and steamship companies and other common carriers, or receivers thereof, except express companies and pipe line companies, upon receipt of freight, to issue bills of lading, and to authenticate, validate or certify such bills of lading under the provisions of this act; prescribing certain requirements for bills of lading, and defining straight and order bills of lading; prohibiting the issuance of order bills of lading in sets or in duplicate; making it the duty of the Railroad Commission to adopt and prescribe forms, terms and conditions for the authentication, validation or certification of bills of lading, and prescribing the duties of the Railroad Commission in reference thereto; providing that all carriers affected by this act shall keep posted in certain places a written instrument authorizing the agent of such carrier to sign bills of lading; prescribing the duties of carriers affected by this act, and their liability for failure to take up and cancel order bills of lading when the goods or a part thereof have been delivered; prescribing that a court of competent jurisdiction may order goods delivered when order bills of lading have been lost by the giving of bond by the holder of the lost bill of lading, under certain conditions; prescribing certain duties of local station agents of carriers; prescribing and defining certain duties and liabilities of carriers affected by this act with reference to and under a bill of lading, and providing that a bill of lading validated, authenticated or certified in accordance with the provisions of this act in the hands of an innocent holder shall be incontestable concerning the matters therein set forth in the bill; providing conditions when the carrier shall not be liable under

the provisions of this act; creating and defining certain criminal offenses for the violation of the provisions of this act, and with reference to the issuance, negotiation or transfer of bills of lading, and prescribing penalties therefor, and declaring an emergency."

Free Conference Committee Substitute for Senate bill No. 10, "An Act to establish a prison system and declaring the policy of the State with reference thereto; to provide for the management and control of such prison system; to provide for the control, management and treatment of all prisoners sentenced to the penitentiary; to provide that prisoners and ex-prisoners as herein defined shall be permitted to testify in certain cases; to abolish the leases and hiring of State prisoners; to provide rules and regulations for the government and conduct of such prison system; to provide for a Board of Prison Commissioners; to provide for their appointment, and defining their powers, duties and authority; to provide for the purchase or sale of real estate by the Prison Commission; to vest title of all real estate owned by the prison system; to provide for the appointment of an auditor, and prescribing his duties; prescribing penalty for the violation of this act; repealing Chapters 1, 2, 3, 4, 5, 6, 7 and 8, of Title 79, of the Revised Statutes of 1895, and all laws and parts of laws in conflict with this act."

SINE DIE ADJOURNMENT.

There being no further business before the Senate, and the notification committees having made their reports, the Chair (Lieutenant Governor Davidson) announced that the hour of 10 o'clock a. m., September 10, 1910, had arrived, at which time the Senate adjourned sine die by concurrent resolution fixing the time, after prayer by the Chaplain, Rev. H. M. Sears.

APPENDIX.

LETTER FROM SUPERINTENDENT HERRING.

The following is printed here by order of the Senate:

Huntsville, Texas, September 4, 1910.
Hon. McDonald Meachum, Austin, Texas.

My Dear Senator: I see from the

papers that there is some probability of the penitentiary bill passing both houses. I wish to say that, in my opinion, should the Senate bill become a law in which the use of the strap is strictly prohibited, a very grave mistake will have been made, and one that will be very demoralizing to the entire prison system, as well as to the convicts themselves. A majority of the convicts who have a clear record in prison today would vote to retain the strap, inasmuch as they know their safety depends upon discipline being maintained among the bad and unruly class of convicts, especially among the more hardened negroes and Mexicans. Whenever this latter class of convicts know that they will not under any circumstances be punished with the strap, mutinies and various other kinds of disturbances will be of common occurrence; therefore, I hope that you will think seriously about this matter. However, as far as I am concerned, it does not seriously affect me, as I have but little more than four months yet to serve; but I want to be fair to the incoming administration, and do not want to see any measure passed that will cripple or hamper them in any way; and I know that if you pass this bill to eliminate the strap you will have dealt them a hard blow.

I do not believe that anyone who knows me thinks I would advocate or allow convicts to be abused; and, therefore, I recommend that every possible safeguard be placed around the using of the strap. Make the law strict, and provide that it be used only in extraordinary or very extreme cases, but I hope that you will not make the mistake of eliminating it entirely.

Only last Friday my office was in receipt of the following telegram, dated September 2, 1910:

"Come at once. Thirty-six men mutiny at Cisco landing." (Signed) J. L. Brooks, Sergeant.

In cases of this kind, what are we to do? I was not at my office when the telegram was received, but the inspector had just left Huntsville for that place. I am unable to hear this morning what the situation is, and merely mention this incident so that you may see what we are up against. The public is not familiar with this side of the case, but the man or men who undertake to run the penitentiaries of this State with the class of prison population we have will soon get familiar with it; and if you entirely eliminate the

strap, you will have them badly handicapped to begin with.

I hope that you can see your way clear to help retain the use of the strap in its extreme cases. I have written you fully and frankly in this matter, as I feel a deep interest in the future welfare of the penitentiary and hope to see it a success.

With kindest personal regards, I am sincerely your friend,

(Signed) J. A. HERRING.

COMMITTEE REPORT.

Committee Room,
Austin, Texas, September 10, 1910.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Enrolled Bills have carefully examined and compared

Free Conference Committee substitute for Senate bill No. 10, "An Act to establish a prison system, and declaring the policy of the State with reference thereto; to provide for the management and control of such prison system; to provide for the control, management and treatment of all prisoners sentenced to the penitentiary; to provide that prisoners and ex-prisoners, as herein defined, shall be permitted to testify in certain cases; to abolish the leases and hiring of State prisoners; to provide rules and regulations for the government and conduct of such prison system; to provide for a Board of Prison Commissioners; to provide for their appointment, and defining their powers, duties and authority; to provide for the purchase or sale of real estate by the Prison Commission; to vest title of all real estate owned by the prison system; to provide for the appointment of an auditor, and prescribing his duties; prescribing penalty for the violation of this act; repealing Chapters 1, 2, 3, 4, 5, 6, 7 and 8, of Title 79, of the Revised Statutes of 1895, and all laws and parts of laws in conflict with this act,"

And find it correctly enrolled, and have this day, at 9:50 o'clock a. m., presented same to the Governor for his approval.

TERRELL of McLennan, Chairman.

Following is the bill:

A BILL

To Be Entitled

An Act to establish a prison system, and declaring the policy of the State with reference thereto; to provide for the management and control of such prison system; to provide for the control, management and treatment of all prisoners sentenced to the penitentiary; to provide that prisoners and ex-prisoners, as herein defined, shall be permitted to testify in certain cases; to abolish the leasing and hiring of State prisoners; to provide rules and regulations for the government and conduct of such prison system; to provide for a Board of Prison Commissioners; to provide for their appointment, and defining their powers, duties and authority; to provide for the purchase or sale of real estate by the Prison Commission; to vest title of all real estate owned by the prison system; to provide for the appointment of an auditor, and prescribing his duties; prescribing penalties for the violation of this act; repealing Chapters 1, 2, 3, 4, 5, 6, 7 and 8, of Title 79, of the Revised Statutes of 1895, and all laws and parts of laws in conflict with this act.

Be it enacted by the Legislature of the State of Texas:

Section 1. That it shall be the policy of this State in the operation of its prison system to so manage and conduct the same that those convicted of violating the law and sentenced to a term in the penitentiary shall have humane treatment, and shall be given opportunity, encouragement and training in the matter of reformation.

Sec. 2. The prison system of this State, as referred to in this act, shall include the State penitentiary at Huntsville, the State penitentiary at Rusk, and such other penitentiaries as may hereafter be established, and all farms or camps where State prisoners are, or may be kept or worked, together with all property of every character belonging thereto or connected therewith.

Sec. 3. It is hereby declared the policy of this State to work all prisoners within the prison walls and upon farms owned by the State, and in no event shall the labor of a prisoner be sold to any contractor or lessee to work on farms or elsewhere, nor shall any prisoner be worked on any farm or otherwise upon

shares, or upon any other farm or place other than that owned or controlled by the State of Texas after January 1, 1914; provided, that all contracts for prison labor in existence at the time this act takes effect shall terminate not later than January 1, 1914, and no contract for any prison labor shall be made which would extend beyond January 1, 1914; provided further, that the Board of Prison Commissioners shall change from the system of leasing and hiring out of prisoners at the earliest practicable time.

Sec. 4. To better carry out such policy, the management and control of the prison system of the State of Texas shall be vested in a board to be known as the Board of Prison Commissioners, and for the purposes of this act shall be referred to as the Prison Commission. Said Board of Prison Commissioners shall be composed of three men to be appointed by the Governor, with the advice and consent of the Senate, whose term of office shall be two years from date of appointment, except those first appointed under this act, who shall hold their offices respectively for eight, sixteen and twenty-four months from the date of their appointment and qualification. In the appointment of said Commissioners first to be appointed under this act, the Governor shall designate the term each one shall hold under such appointment; provided, however, that in the event of a change in the Constitution, extending the term of office of the Prison Commissioners, then the members of said Board of Prison Commissioners then in office shall adjust their terms of office by lot or in conformance with the provisions of such constitutional amendment without the necessity of further legislative enactment.

Sec. 5. Each member of said Commission shall, within ten days after his appointment, execute a bond, payable to the Governor of this State and his successors in office for the use of the State, in the sum of \$50,000, and conditioned that he will faithfully execute the duties of his office, which said bond shall be executed with two or more good and sufficient sureties, or with some indemnity fidelity or bonding companies authorized to do business in Texas, the form of which bond shall be prepared by the Attorney General and the sufficiency of the sureties thereon approved by, and the same shall be filed with, the Secretary of State, which said bond shall not be

void on the first recovery of part, or of the whole of the penalty, but shall thereafter continue in force for the whole amount of the penalty thereof, and may be sued on from time to time, and shall be deemed to extend to the faithful performance of the duties of his trust, until his successor shall be duly qualified and shall have entered upon the duties of his office. And it shall be the duty of the Attorney General, upon notice of default or failure to perform the duties as contemplated by law by any member of said Prison Commission, to bring suit in any court of competent jurisdiction in Travis county, Texas, for the forfeiture and collection of said bond; and before entering upon the duties of his office, each member of said board shall take and subscribe the oath of office prescribed by the Constitution of this State.

Sec. 6. Each member of the Board of Prison Commissioners shall receive, as compensation for his services the sum of three hundred dollars per month, to be paid at the end of each month, and in addition thereto he shall be allowed all reasonable and necessary traveling expenses actually incurred when traveling on business of the prison system, to be paid together with said salary out of the funds of the prison system, all such expense accounts to be itemized and sworn to in duplicate and approved by the Board of Prison Commissioners, or a majority of said board, one copy to be kept with the records of the Board of Prison Commissioners and one copy to be filed with the Comptroller of Public Accounts. Each member of said Board of Prison Commissioners shall reside at Huntsville, in Walker county, Texas, which is hereby designated as the headquarters of the prison system, and shall be permitted to occupy free of rent the residence houses belonging to the State at Huntsville.

Sec. 7. Each member of said Prison Commission shall devote his entire time to the discharge of the duties of said office, and shall not engage in any other occupation or business during his term of office, nor shall either of the members of said board be directly or indirectly connected with or interested in any contract, sale or purchase of any property or thing whatsoever which may be made during his term of office and in which either the State or the prison system are interested. And any violation of any of the provisions of this section of this act shall be sufficient ground for his removal from office.

Sec. 8. That said Prison Commission

shall be vested with the exclusive management and control of the prison system of this State, and shall be held responsible for the proper care, treatment, feeding, clothing and management of the prisoners confined therein, and at all times for the faithful enforcement of the spirit, intent and purpose of the laws and rules governing said system; provided, that the Prison Commission shall be held responsible for maltreatment of prisoners, and, if permitted, it shall be grounds for removal from office.

Sec. 9. That the said Prison Commission shall have the power to and it shall be their duty to appoint all necessary officers, all physicians, chaplains, teachers and all clerical help needed in conducting said prison system, including a secretary of the Prison Commission, and they shall require all appointees, who, in discharging their duties, are charged with handling any funds of the system or State, to execute bond in such amount as may be fixed by the Prison Commission, payable to the Prison Commission for the use and benefit of the State, to be conditioned for the faithful performance of their duties.

Sec. 10. A majority of said Prison Commission shall constitute a quorum for the transaction of business. The Commissioners shall select one of their number as chairman. They shall designate one member to have supervision over the finances and financial transactions of the prison system, one who shall supervise the feeding, clothing, care and treatment of the prisoners, and one who shall supervise the work of all the officers and employes of the prison system, and who shall also be known and designated as the Superintendent of Parole, and shall direct the enforcement of any parole law or indeterminate sentence law which may now or hereafter be in force in this State, unless otherwise directed by law. Provided, that the work of each member so designated shall be under the general supervision of and he shall report his actions to the Prison Commission. The provisions of this section are intended to facilitate the work of the Prison Commission and shall not be construed as relieving the full Board of the Prison Commissioners of any authority or general responsibility for the management of the prison system. The Prison Commission shall keep or cause to be kept in a well-bound book a minute of the proceedings of all meetings held by them.

Sec. 11. The Prison Commission shall have the authority at all times to dis-

charge any officer or any employe of the prison system for failure to comply with the rules, regulations or laws governing the prison system, or for any dereliction in duty, or whenever they may deem it to be for the best interests of the service.

Sec. 12. The Prison Commission shall have the power to purchase or cause to be purchased with such funds as may be at their disposal, any lands, buildings, machinery, tools or supplies for the benefit of said prison system, and may establish such factories as in their judgment may be practicable and that will afford useful and proper employment to prisoners confined in the State prison, under such regulations, conditions and restrictions as may be deemed best for the welfare of the State and the prisoners, it being the purpose of this act to clothe said Board of Prison Commissioners with all power and authority necessary for the proper management of the prison system of this State.

Sec. 13. The Prison Commission shall have power, with the approval of the Governor, to purchase such land as may, in their judgment, be necessary in the operation of said system, and the employment of prisoners confined in said prison, and in the purchase thereof they may pay such sum in cash as may be agreed upon with the vendor and for the unpaid purchase money to become due upon said land they shall execute to the vendor notes payable in such sum and at such time as may be agreed upon between the parties, and the payment of which shall be secured by a deed of trust upon such land in the usual form, and containing such covenants as may be agreed upon between the parties, and may pledge a sufficient amount of the net revenues of the property so purchased to pay the deferred installments of purchase money thereon, and it shall be expressly provided in the conveyance to said land, the notes executed for the unpaid purchase money and the deed of trust, that the vendor relies alone upon the lien created by the deed of trust upon said land and the net revenues so pledged, and that no personal liability against the Prison Commission or the State of Texas shall arise out of said transaction beyond said liens; and the purchase money paid originally, as well as the installments paid upon the deferred payments, may be paid out of any funds belonging to said prison system. The title to all lands purchased by the Prison Commission under the terms of this act shall be examined, passed

upon and approved as good and sufficient by the Attorney General, and all conveyances, notes and trust deeds and other instruments executed under the provisions of this act shall be prepared, passed upon and approved by the Attorney General. The title to all lands so purchased shall vest in the Prison Commission, and their successors in office, as trustees for the State.

Sec. 14. The Prison Commission may buy annually so many acres of land as will, not later than January 1, 1914, or sooner, if practicable, enable all prisoners hired out or employed on share or contract farms, and who are not otherwise employed by the State, to be employed directly on farms belonging to the prison system.

Sec. 15. The Prison Commission is authorized, and it shall be its duty, to cause to be constructed upon land now belonging to the prison system, and upon such land as may be bought hereafter, all necessary modern fire-proof, well-ventilated prison buildings, providing a separate cell or room for each prisoner, as far as conditions and the welfare of the prisoners demand, with proper bathing facilities and all necessary sanitary water closets and other sanitary arrangements within such buildings; also sanitary kitchens, dining rooms, hospitals, school rooms and chapels, and other necessary conveniences for the benefit of the prisoners. The provisions of this section shall be carried out to completion as rapidly as is practicable, so that the same shall be completed in the entire system within six years from the taking effect of this act.

Sec. 16. The Prison Commission shall have power to sell and dispose of all farm products and the products of all factories connected with the prison system, and all personal and movable property at such price and on such terms as may be deemed best by them, and they may, with the approval of the Governor, sell or lease any real estate or other fixed property and appurtenances belonging thereto upon such terms as to them seem best, and upon the sale thereof they shall have power to execute proper conveyances to the title thereto, which instruments of conveyance shall be prepared and approved by the Attorney General. The Prison Commission shall, in the purchase or sale of all real estate, or in the purchase or sale of any machinery or equipment for the prison system exceeding in value the sum of \$5000, advertise in the manner prescribed by

the Prison Commission for bids for such property in at least three daily papers in this State having a general circulation, and shall give all such bids received to the public press at least thirty days before any such contract is let.

Sec. 17. On Monday of each week the Prison Commission shall remit to the State Treasurer all moneys received by them as such from whatever source during the preceding week and belonging to the system. The Treasurer shall hold such fund as bailee for the Prison Commission, which fund shall be known as the Prison Commission Account, and he shall give to the Prison Commission a deposit receipt for same, and shall pay out same on draft drawn by the officer designated by Section 22 of this act. The Prison Commission is authorized to draw upon the Prison Commission Account with the State Treasurer, such sum or sums of money and at such time or times, as in their judgment may be necessary for the transaction of the business of the system; provided, they shall not draw for a sum that will give them in hand and in bank subject to disbursement a sum in excess of twenty-five thousand dollars; and, provided further, the account of the prison system with the State Treasurer shall in no event be overdrawn and in no event shall the State Treasurer ever permit an overdraft against the Prison Commission Account to be paid. On December 1st of each year the State Treasurer shall ascertain the interest earned by the fund belonging to the prison system from the State depositories, and place said sum to the credit of the Prison Commission Account and send deposit receipt to the Prison Commission.

Sec. 18. The Prison Commission may at any time issue such orders and prescribe such rules and regulations for the government of the prison system of this State, not inconsistent with the law, as it may deem proper, or to provide such details not embraced herein, and for such contingencies as may at any time arise concerning the management of the prison system, or its proper and effective operation, and such rules and regulations shall be made with a view of carrying out the general principles on which the penal laws are founded, and for which the prison system is established, and shall be binding on all underofficers, employes and all persons whomsoever in any way connected with the State prisons or its management, or its prisoners within and without the

walls. The Prison Commission shall have all laws, rules and regulations of the prison system printed in pamphlet form for the information and guidance of all connected with the management of the prison system, and such parts of said rules as relate to the duties of subordinate officers and prisoners shall be printed in suitable form and posted in conspicuous places about the prison, or wherever prisoners may be confined, for the information of all concerned. All officers, employes and guards having supervision of prisoners shall be furnished with a copy of the law, rules and regulations governing the prison system, and shall give a receipt therefor, and the Prison Commission shall from time to time require examination of such officers, employes and guards as will ascertain their knowledge of such law, rules and regulations, and any such officer, employe or guard who shall fail to familiarize himself with the law, rules and regulations of the prison system shall be dismissed from the service.

Sec. 19. It shall be the duty of some member or members of the Prison Commission to spend at least one whole day each month, without notice, at each prison, camp or farm where prisoners are kept or worked, and to carefully inspect same with reference to the food, clothing and treatment of the prisoners, the general sanitary conditions existing at such prisons, camps or farms, reporting upon such conditions, the efforts at reformation, the general conduct of all officers and employes connected therewith, and punishment administered for the enforcement of prison discipline, making such reports to the full Board of Prison Commissioners; provided, that the various prisons, camps and farms where prisoners are kept, may be divided for the purpose of this inspection between two or more members of the Prison Commission, or such other person as may be designated by the Prison Commission.

Sec. 20. It shall be the duty of the Prison Commission to make suitable provision and regulation for the safe and speedy transportation of prisoners from counties where sentenced to the penitentiaries at Huntsville by the sheriffs of such respective counties, if such sheriffs are willing to perform such services as cheaply as said Commission can have it done otherwise. Said transportation shall be on State account, and in no instance shall the prisoners be carried direct from the county jails to

the State farms, but shall first be carried to the penitentiary at Huntsville, where the character of labor which each prisoner may reasonably perform shall be determined. Upon the arrival of each prisoner at the penitentiary at Huntsville the Prison Commission shall cause a statement to be made by the prisoner, giving a brief history of his life, and showing where he has resided, the names and postoffice addresses of his immediate relatives, and such other facts as will tend to show his past habits and character; and the Prison Commission shall, by correspondence or otherwise, verify or disprove such statements, if practicable, and shall preserve the record and information so obtained for future reference.

Sec. 21. The Prison Commission shall cause to be made annually on the 1st day of January, a full and complete inventory of all lands, buildings, machinery, tools, live stock, and all other property of every description belonging to the prison system, and shall cause to be set opposite each item the book value, and also the actual value of the same, so as to afford an easy comparison with the previous annual statement. And the Prison Commission shall cause to be kept in the accounting department of the prison system a system of books, showing a separate account with each industry and farm and for the system as a whole, showing the losses, profits and net earnings of each industry and farm connected with the system, and shall make a report of the same annually on the 1st day of January to the Governor, which report shall be published by the Governor in a sufficient number of copies to give general publicity to such report; such report to include the rules and regulations in force for the management of said system and the methods of dealing with the convicts thereof.

Sec. 22. The member of the Prison Commission designated by the board to have supervision over the finances and financial transactions of the prison system shall keep, or cause to be kept, correct and accurate accounts of each and every financial transaction of the prison system, including all receipts and disbursements of every character. He shall receive and receipt for all money paid to the Prison Commission from every source whatsoever, and shall sign all vouchers or warrants authorizing the payment or disbursement of any sum or sums on account of the prison system,

and no money shall be paid out on any account of the prison system except upon a warrant or voucher signed by him. He shall keep full and correct accounts with each industry, department and farm, and with all firms, persons or corporations having financial transactions with the prison system. He shall have power to require all necessary reports from any department, officer or employe at stated intervals. All deposits of prison funds with banks shall be kept in the name of the officer in his official capacity, and all funds of the prison system shall be kept separate from private funds. Such accountants and clerical assistance as may be necessary to carry out the provisions of this section shall be provided by the Prison Commission, in order that a full, complete and correct account may be kept of all financial transactions of the prison system. In the absence of such officer, one of the other Prison Commissioners may sign such receipts, warrants or vouchers.

Sec. 23. On the taking effect of this act, and annually thereafter, there shall be appointed by the Comptroller of Public Accounts, the Attorney General and the State Treasurer a permanent auditor for the prison system, who shall hold his office for a term of one year, subject to discharge at any time as hereinafter provided. It shall be the duty of such auditor to audit all accounts, vouchers, pay rolls and all other business transactions of the prison system, and to check all property, material and supplies received and disposed of by or distributed within the prison system, and he shall make a full report thereof to the Governor on the 1st day of January of each year. Such auditor shall be subject to discharge at any time by the Comptroller of Public Accounts, Attorney General and State Treasurer, or by a majority of said officers, for any incompetency, neglect, failure or refusal to discharge the duties of his office, or for any wrongful conduct that in the judgment of the Comptroller of Public Accounts, Attorney General and State Treasurer renders him unfit for said office, and in the case of the discharge or resignation of any auditor, another shall be appointed by said officers or a majority of said officers. During the term of his services such accountant shall be paid monthly a salary of two hundred dollars per month and all actual and necessary traveling expenses, to be paid at the end of each month out of any moneys belonging to the prison sys-

tem, such traveling expenses to be evidenced by an itemized sworn statement by the auditor, filed with the board.

Sec. 24. Each member of the Board of Prison Commissioners in the discharge of his duties is authorized to administer oaths, to summon and examine witnesses, and take such other steps as he deems necessary to ascertain the truth of any matter about which he may have the right to inquire.

Sec. 25. Except for third-class prisoners, within a reasonable time and not later than six months after the taking effect of this act, the Prison Commission shall abolish striped or checked clothes for prisoners, except as a mode of punishment for the violation of prison discipline, substituting therefor some suitable uniform.

Sec. 26. The Prison Commission shall, as soon as practicable, provide each prison, farm and camp where prisoners are kept or worked, schools for instruction of prisoners in elementary branches of the English language and industrial education, and such other instruction as they may prescribe, and shall provide suitable recreation for the prisoners at reasonable hours, including music, and they shall employ such number of competent teachers to instruct the prisoners in the same as in the judgment of the Prison Commission may seem necessary, and the Prison Commission shall make reasonable rules and regulations whereby the prisoners may attend such schools. The Prison Commission shall prescribe and furnish to the prisoners suitable books and other reading matter, and to this end may establish and operate among the prisoners a circulating library, and may adopt such other means of distributing among the prisoners good and wholesome literature, as in the judgment of the Prison Commission will best enable the prisoners to avail themselves of the same; provided, that all teachers herein provided for shall, as far as practicable, be taken from the convicts, and such teachers may be excused from further labors. The chaplain shall be ex-officio librarian of the penitentiary, passing upon all library books, and direct such other work as may be prescribed for such library management.

Sec. 27. The Prison Commission shall provide for religious services at prisons, farms and camps where prisoners are kept or worked. They shall employ such chaplains as may be necessary to afford all prisoners an opportunity to attend at least two religious services each

month, said chaplains to devote their entire time to religious and moral training and education of the prisoners under their care, teaching them the principles and practice of every Christian and moral duty; provided, that chaplains may also be teachers, as provided for in this act.

Sec. 28. If any member of the Board of Prison Commissioners shall be guilty of malfeasance or nonfeasance in office or shall become incapable or unfit to discharge his official duties, or shall wilfully fail, refuse or neglect to discharge the duties of his office, such member shall be subject to removal from office as provided by Article 3528, Revised Statutes of 1895.

Sec. 29. The Prison Commission shall, except as provided in this act, fix the salaries of all officers and employes of the prison system upon such basis as the labor and ability of the officer or employe entitles him to, such salary to be paid monthly at the end of each month. They shall pay to those employed as guards of the convicts a salary of not less than thirty-five dollars per month and furnish them board and lodging free; provided, that for meritorious service and adaptability to the work, the Prison Commission may increase the pay of any guard to an amount not to exceed forty dollars per month. No person shall be employed as a guard to guard convicts who is not at least 21 years of age, of good moral character, and who is not able to read and write, and has not a fair knowledge of the English language, and the Prison Commission may provide such other qualifications as they may deem expedient; provided, that no person shall be employed as a guard who is in any way addicted to the use of alcoholic or intoxicating liquors, and the Prison Commission shall require all officers and employes connected with the prison system to familiarize themselves with and conform to the rules and regulations and laws governing the prison system of this State; provided, the Prison Commission shall require all officers and employes connected with the prison system of this State to take and subscribe to the oath of office prescribed by the Constitution.

Sec. 30. The Prison Commission shall see that all State prisoners are fed good and wholesome food, properly prepared, under wholesome sanitary conditions and in sufficient quantity and reasonable variety, and they shall hold

all underofficers performing this work strictly to account for any failure to carry out this provision. That the food may be properly prepared, the Prison Commission shall provide for the training of prisoners as cooks.

Sec. 31. The Prison Commission shall require at the end of each month reports showing fully the condition and treatment of the prisoners and the changes in the prison population during the month, including itemized statements of all different items of food, clothing and utensils used and on hand in each of the units of the prison system, and such other matters as they may require.

Sec. 32. The Prison Commission shall keep a register of all prisoners belonging to the prison system, showing the number of each prisoner, giving the aliases, name, age, height, color of hair, color of eyes, complexion, marks on person, sex, nativity, residence, county where convicted, offense of which convicted, date of sentence, date of receipt, previous occupation and habits, if known, and may adopt such other means of identification as they may deem proper and necessary. They shall keep a record of the general conditions and conduct of each prisoner, noting all punishments, forfeitures, bad conduct, changes and incidents of importance that may occur during his confinement, and to the end that complete records may be kept, they may require from all underofficers such monthly and other reports as they may deem proper. They shall issue discharges to such prisoners as are entitled thereto by expiration of sentence or otherwise.

Sec. 33. That persons confined in the State prisons of this State may have every opportunity and encouragement for moral reform, it shall be the duty of the Prison Commission, in addition to the requirements of this act, to provide every reasonable and practicable means for the encouragement of such reform. To this end, the Prison Commission shall provide for the classification of all prisoners, separating them into the following classes: In the first class shall be included young men, first offenders, those appearing to be corrigible, or less vicious than others, and likely to observe the laws, and to maintain themselves by honest industry after their discharge. In the second class shall be included those appearing to be less corrigible, or more vicious, but content to work, and reasonably obedient to prison discipline as not to seriously interfere

with the productiveness of their labor, or with the labor or conduct of those with whom they may be employed. In the third class shall be included those appearing to be incorrigible, or so insubordinate, or so vicious in their nature as to seriously interfere with the labor and moral development of those with whom they must come in contact. The Prison Commission shall make rules and regulations for the promotion and reduction of the prisoners from one class to another, and shall transfer them from one class to another from time to time, as they may seem to merit promotion or reduction. The prisoners in each of the classes hereinbefore named shall be kept in or upon different or separate prisons or farms. Any prisoner, upon entering the prison system, shall be assigned to one of its institutions according to his class, as hereinbefore provided, and shall be entered in said institution in a neutral grade, which shall be known as grade No. 2, and in which he shall be furnished with a suitable uniform designated for that grade. The Prison Commission shall adopt rules for a higher grade, which shall be known as grade No. 1, as a reward for obedience to prison discipline and good conduct, and shall provide a suitable uniform for this grade; and they shall provide for a lower grade as a punishment for misconduct and violation of prison discipline, which grade shall be known as No. 3, and in which the prisoner shall be clothed in stripes. The uniforms for grades Nos. 1 and 2 shall not be stripes. The Prison Commission shall provide rules for promotion of prisoners from any grade to another for good conduct and obedience to prison discipline and for demotion of prisoners for misconduct and violation of prison discipline. The Prison Commission shall provide specifically for the extension or denial of privileges for the various grades herein provided. In order that prison discipline may be enforced, the Prison Commission may adopt such modes of punishment as may be necessary, such punishment being always humane, and placing prisoners in stocks shall be prohibited. Whipping, with not exceeding twenty lashes on the bare rump and thighs may be resorted to with prisoners of the third class, who can not be made to observe the rules by milder methods of punishment. The strap to be used must be of leather, not over two and one-half inches wide, and twenty-four inches long, attached to a wooden han-

dle; no convict shall be whipped until same has been authorized by at least two members of the Prison Commission upon their written order, and such order so issued shall be executed only in the presence of a prison physician, and a sworn report shall be made by the officer executing such order to the Penitentiary Commission, who shall keep a record of all such report in a well-bound book, to be kept for that purpose, which shall be at all times open to public inspection; and such report so to be made by such officer executing the order of the Penitentiary Commission, shall state the name of the convict whipped, the number of strokes administered, the size of the strap used, the time and place thereof, in whose presence same was done, and the cause thereof. It shall further be the duty of the Penitentiary Commission to make a semi-annual report of the whipping of convicts to the district judge of the county where such whippings occurred, who shall report same to the grand jury, which is hereby authorized to make investigation thereof, if they deem same advisable. The utmost care must be used by the officer executing the order of the Commission not to break the skin of the prisoner whipped, and any person guilty of whipping a prisoner more lashes or other than as provided herein, or striking a prisoner, except in self-defense, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than \$25 nor more than \$250, and imprisoned in the county jail not less than thirty days nor more than six months. White and negro prisoners shall not be worked together when it can be avoided, and shall be kept separate when not at work.

Sec. 34. All female prisoners shall be kept separate and apart from the male prisoners. Where practicable, the Prison Commission shall keep the female prisoners upon a separate farm or at a separate prison from the male prisoners, and shall provide reasonable rules and regulations for the government of the same.

Sec. 35. The Prison Commission shall provide such labor for said female prisoners as in their judgment they can reasonably perform, but the prison physician for such female prisoners shall at any time have the authority to say whether the physical condition of said female prisoners is such that they can perform any physical labor; provided, that in the absence of the physician the matron shall pass upon the physical condition of said female prisoners.

Sec. 36. The Prison Commission shall keep the white female prisoners separate and apart from the negro female prisoners, and shall select and place over said female prisoners a matron or matrons, whose duty it shall be to give her personal attention to the welfare of such female prisoners. The matron or matrons so employed to look after the welfare of the female prisoners shall reside at the place where female prisoners are kept.

Sec. 37. At the place where female prisoners are kept none but married men shall be employed as guards, and the houses for such guards and their families shall be provided by the State, in which the families of the guards shall live. And said guards shall be allowed \$10 per month in addition to his salary in lieu of his board, said houses not to be situated further than one hundred yards from the main prison building where such female prisoners are kept.

Sec. 38. If a female prisoner be received with an infant, or if any child be born in the penitentiary, the child shall be permitted to remain with its mother until three to six years of age, in the discretion of and as prescribed by the Prison Commission.

Sec. 39. Every prisoner who shall become entitled to a diminution of his term of sentence by good conduct shall receive compensation from the earnings of the State prison to the amount of 10 cents per day for the time said prisoner is confined in prison; provided, that whenever any prisoner shall forfeit any part of his good time for misconduct or violation of the rules or regulations of the prison, he shall forfeit out of the compensation allowed under this section 25 cents per day for each day of such good time so forfeited; provided, that when such prisoner has a family or relatives within the second degree by consanguinity or affinity, dependent upon him, such saving shall be paid semi-annually to such of them as may be designated by the prisoner, but if he have no such dependent relatives then said saving shall be paid to him upon his discharge from prison. And if he be a life-term prisoner such saving may be paid as directed by him, with the approval of the Prison Commission. But if he should die in prison without such dependent relations such saving shall revert to the State.

Sec. 40. No prisoner shall be worked on Sunday except in cases of extreme necessity, and all prisoners so required

to work on Sunday shall be paid out of the funds of the prison system the sum of \$1 per day for each Sunday so worked.

Sec. 41. The various provisions of this act are designed to secure to the prisoners humane treatment, suitable moral instruction, to provide for their health, and to extend to them such comforts and privileges as may be consistent with their situation, and at the same time to require of them a due attention to their various duties and a strict observance of the discipline, rules and regulations of the prison.

Sec. 42. In order to encourage prison discipline, a distinction may be made in the treatment of prisoners so as to extend to all such as are orderly, industrious and obedient comforts and privileges according to their deserts. The rewards to be bestowed on prisoners for good conduct shall consist of such relaxation of strict prison rules and extension of social privileges as may not be inconsistent with proper discipline. Commutation of time for good conduct shall be granted by the Prison Commission, and the following deductions shall be made from the term or terms of sentences when no charge of misconduct has been sustained against a prisoner, viz.: Two days per month off the first year of sentence; three days per month off the second year of sentence; four days per month off the third year of sentence; five days per month off the fourth year of sentence; six days per month off the fifth year of sentence; seven days per month off the sixth year of sentence; eight days per month off the seventh year of sentence; nine days per month off the eighth year of sentence; ten days per month off the ninth year of sentence; fifteen days per month off the tenth year, and all succeeding years of sentence. A prisoner under two or more cumulative sentences shall be allowed commutation as if they were all one sentence. For each sustained charge of misconduct in violation of any rule known to the prisoner in any year of the term, the commutation allowed for one month of such year may be forfeited, for any sustained charge of escape or attempt to escape, mutinous conduct or other serious misconduct, all the commutation which shall have accrued in favor of the prisoner up to that day shall be forfeited, unless in case of escape, the prisoner voluntarily returns without expense to the State, such forfeiture may be set aside by the Prison Commission. For extra meritorious conduct on the

part of any prisoner, he shall be recommended to the favorable consideration of the Governor for increased commutation or pardon, and in the case of any prisoner who shall have escaped and been captured, part or all of his good time thereby forfeited may be restored by the Prison Commission, if in their judgment his subsequent conduct entitles him thereto.

Sec. 43. Hereafter, life or long-term prisoners who have actually served fifteen years and have no sustained charges of misconduct and have a good prison record, and who shall be favorably recommended to the Governor, may receive at the hands of the Governor a reasonable commutation of sentence, and if a life sentence is commuted to a term of years, then such convict shall have the benefit of the ordinary commutation, as if originally sentenced for a term of years, except the Governor shall otherwise direct.

Sec. 44. Suitable clothing of substantial material, uniform make and reasonable fit, and such footwear as will be substantial and comfortable shall be furnished the prisoners, and no prisoner shall be allowed to wear other clothing than that furnished by the prison authorities, except in case of extra meritorious conduct only the Prison Commission may allow the prisoner to wear citizen underwear. Sufficient food of wholesome quality and variety and wholesomely prepared shall be furnished to all, and such provisions shall be made for serving the food to prisoners as will tend to encourage and elevate them. It shall be the duty of every officer charged with the preparation and serving of food to the prisoners to post in the dining room each Monday morning for the coming week the bill of fare for that week, and the rules promulgated by the Prison Commission shall prescribe the quality, kind and variety of food to be furnished. Prisoners shall not be allowed spirituous, vinous or malt liquors, except upon the prescription of the physician.

Sec. 45. Prisoners shall be kept at work under such rules and regulations as may be adopted by the Prison Commission; provided, that no prisoner shall be required to work more than ten hours per day, except in case of an extreme and unavoidable emergency, which time shall include the time spent in going to and returning from their work, but not to include the intermission for dinner, which shall not be less than one hour. And in case of such extreme and un-

avoidable emergency said prisoner shall receive out of the funds of the prison system the sum of 10 cents per hour for such work so performed more than ten hours per day. In going to and returning from work prisoners shall not be required to travel faster than a walk. No greater amount of labor shall be required of any prisoner than his physical health and strength will reasonably permit, nor shall any prisoner be placed at such labor as the prison physician may pronounce him unable to perform. No prisoner upon his admission to the prison shall be assigned to any labor until first having been examined by the prison physician. Any officer or employe violating any provision of this section shall be dismissed from the service.

Sec. 46. Prisoners who have been reported by the physician or other officer in charge as in a condition of health which requires their removal to some other place shall be accordingly removed.

Sec. 47. Prisoners when received into the penitentiary shall be carefully searched. If money be found on the person of the prisoner, or received by him at any time, it shall be taken in charge by the Prison Commission and placed to the prisoner's credit, and expended for the prisoner's benefit on his written order, and under such restrictions as may be prescribed by law or the rules. Any officer or employe having charge of a prisoner's money who misappropriates the same, or any part thereof, shall be deemed guilty of a felony and upon conviction thereof shall be confined in the penitentiary for a term of not more than five years.

Sec. 48. If any prisoner shall die while in prison, the officer in charge of the prisoner at the time of his death shall immediately report the same to the Prison Commission, and, if he knows the address or place of residence of any relative within the third degree, either by consanguinity or affinity, shall also notify by wire said relative of the death of such prisoner, and if the relative of such prisoner claim the body or will take charge of same, then the body of such prisoner shall be turned over to such relative, and the expense of shipping the body to where it is to be buried, provided it is within this State, shall be paid by the Prison Commission out of any available penitentiary funds on hand upon the request of such relative. If the residence and address of the relative of such prisoner is unknown, such prisoner shall be decently buried in

citizen's clothes, and the grave marked by a stone with the name of said prisoner, date of death, and age, if known, inscribed thereon. If the body of such prisoner is not claimed by the relatives, the Prison Commission shall at once notify the county judge of the county from which the prisoner was sentenced of his death, the date and cause of death and place of burial. The Prison Commission shall cause to be made and kept a record of the deaths of prisoners and certified copies of same made by the custodian thereof shall be admissible in evidence under the rules of law applying to official records. Any officer or employe of the prison system of whom any duties are required by this section, who shall fail to discharge such duties, shall be guilty of a misdemeanor and upon conviction shall be fined in any sum not exceeding five hundred dollars.

Sec. 49. The Prison Commission, or other person in charge of prisoners, upon the death of any prisoner under their care and control shall at once notify the nearest justice of the peace of the county in which said prisoner died of the death of said prisoner, and it shall be the duty of such justice of the peace, when so notified of the death of such prisoner, to go in person and make a personal examination of the body of such prisoner, and inquire into the cause of the death of such prisoner, and said justice of the peace shall reduce to writing the evidence taken during such inquest and shall furnish a copy of the same to the Prison Commission and a copy of the same to the district judge of the county in which said prisoner died, and the copy so furnished to said district judge shall be turned over by the district judge to the succeeding grand jury, and the said judge shall charge the grand jury if there should be any suspicion of wrongdoing shown by the inquest papers to thoroughly investigate the cause of such death. Any officer or employe of the prison system having charge of any prisoner at the time of the death of such prisoner, who shall fail to immediately notify a justice of the peace of the death of such prisoner, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not less than one hundred dollars nor more than five hundred dollars, and by confinement in the county jail not less than sixty days nor more than one year; provided, that the justice of the peace making such examination shall be paid a fee as is now provided by law for holding inquests, said fee to be on

sworn account therefor, approved by the Prison Commission.

Sec. 50. The Prison Commission shall provide for competent medical attention for all prisoners, and shall establish rules whereby all physicians shall be required to keep a record of all cases of sickness, accident or injury which they treat. The physicians so employed shall be reputable practicing physicians of not less than two years of experience in practice. Each physician employed in the prison system shall at the end of each month file with the Prison Commission a report in writing, subscribed and sworn to by him, which report shall state the names, race and sex of each prisoner treated, or examined by him during said month, the malady or disease with which each was afflicted, and if any shall be suffering with wounds or injuries inflicted by accident or some individual he shall state the nature and extent of said injuries, by whom and by what means inflicted, or how the same occurred, and all such other information concerning said matters, and the condition of each prisoner treated or examined by him during said months as he may possess; provided further, that for a failure to make such a report or any false statement knowingly made by any such physician in any such reports he shall be prosecuted for the offense of perjury or false swearing, as provided by law.

Sec. 51. The Prison Commission shall also provide a competent dentist or dentists whose duty it shall be to care for the teeth of the prisoners; such dentist or dentists shall at the direction of the Prison Commission visit the various places where prisoners are kept or worked at such intervals as may be prescribed.

Sec. 52. When a prisoner is entitled to a discharge from prison he shall be furnished with a written or printed discharge from the Prison Commission, with seal affixed, signed by the Chairman of the Board of Prison Commissioners, giving the prisoner's name, date of sentence, from what county sentenced, amount of commutation received, if any, the trade he has learned, if any, his proficiency in same, and such other description as may be practicable. He shall be furnished with a decent outfit of citizen's clothing of good quality and fit, two suits of underwear, five dollars in money in addition to any money held to his credit and unredeemable and non-transferable railroad transportation to the nearest

depot from whence sentenced, but, if such prisoner prefers, he may receive such transportation to any point in this State designated by him.

Sec. 53. The Governor, and all other members of the executive and judicial departments of the State, and members of the Legislature, shall be admitted into the prisons, camps and other places where prisoners are kept or worked, at all proper hours, for the purpose of observing the conduct thereof, and may hold conversation with the convicts, apart from all prison officers. Other persons may visit the penitentiary under such rules and regulations as may be established.

Sec. 54. The Prison Commission, with the Governor's approval, may offer such reward for the apprehension of an escaped prisoner as may be fixed by the Prison Commission, and to be paid as directed by the Prison Commission.

Sec. 55. Any officer or employe of the prison system who shall fraudulently convert to his own use and benefit any food, clothing or other property belonging to or under control of the prison system shall be guilty of theft, and upon conviction be punished as prescribed by law.

Sec. 56. Any officer, agent or employe in any capacity connected with the prison system of this State who shall be financially interested, either directly or indirectly, in any contract for the furnishing of supplies or property to the prison system, of the purchase of supplies or property for the prison system, or who shall be financially interested in any contract to which said prison system is a party, or who shall knowingly and fraudulently sell or dispose of any property belonging to said prison system below its reasonable market value, or who shall be financially interested in any other transaction connected with the prison system, shall be guilty of a felony, and upon conviction thereof shall be punished by confinement in the State penitentiary for a term of not less than two years nor more than five years, and each transaction shall constitute a separate offense.

Sec. 57. Any sergeant, guard or other officer or employe of the prison system of this State who shall inflict any punishment upon a prisoner not authorized by the rules of the prison system shall be guilty of an assault, and upon conviction thereof shall be punished as prescribed by law, and it shall be the duty of the Prison Commission to make

complaint before the proper officer of any county in which such assault was committed upon such prisoner; provided, that in all cases where any person is charged by complaint or indictment with an offense against a prisoner, prisoners and ex-prisoners shall be permitted to testify.

Sec. 58. No gambling shall be permitted at any prison, farm or camp where prisoners are kept or worked. Any officer or employe engaging in or knowingly permitting gambling at any such prison, farm or camp shall be immediately dismissed from the service.

Sec. 59. The Prison Commission shall provide a seal whereon shall be engraved in the center a star of five points and the words "Board of Prison Commissioners of Texas" around the margin, which seal shall be used to attest all official acts.

Sec. 60. The Prison Commission, by and with the consent of the Governor, shall have the power to work convicts on public works, when they can not employ them on the State farms or within the walls by reason of some unforeseen calamity, such as failure of crops, or the destruction of crops by wind or flood. When convicts are worked on public works owned by the State

or a subdivision of the State, the humane provisions of this act shall be strictly complied with.

Sec. 61. Chapters 1, 2, 3, 4, 5, 6, 7 and 8, Title 79, of the Revised Statutes of 1895, relating to penitentiaries and their management, and all laws and parts of laws in conflict herewith, are hereby repealed.

Sec. 62. In view of the fact that the terms of office of the Superintendent, the Assistant Superintendent and the Financial Agent of the penitentiary system do not expire until about January 20, 1911, and the further fact that the penitentiary system is a large business enterprise, and to make the changes in the management thereof provided in this act will require some time, and the further fact that the crops grown upon the State farms are now being harvested, and the harvesting thereof will not be completed before January next, it is deemed expedient that this act shall take effect January 20, 1911, and not before, and it is so enacted.

Sec. 63. If any provision, or provisions, of this act shall be held invalid, the remaining provisions shall not be affected thereby, but the same shall be given full force and effect.